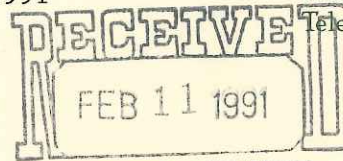




INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

February 8, 1991

105 South Meridian Street
P.O. Box 6015
Indianapolis 46206-6015
Telephone 317/232-8603



PERMIT SECTION
EPA, REGION V

Mr. Dale Bryson, Director
Division of Water (5WQ - TUB 08)
U.S. EPA Region 5
230 South Dearborn Street
Chicago, Illinois 60604

Re: Application for Delegation
of General Permits Program

Dear Dale:

Enclosed for your approval is Indiana's application for delegation of the general permits program. As you know, our draft application was submitted in April of this year. This submittal includes the following:

1. Description of Indiana's General permit program.
2. Three copies of signed Modification of Memorandum of Agreement (revised as per EPA comments of September 1990).
3. Original signed Attorney General's statement regarding Indiana's statutory authority to issue general permits. As per EPA comments of September, 1990, we have requested a revised statement from the Indiana Attorney General regarding regulatory authority.
4. Supporting documents, including copies of Indiana statutory and regulatory authority to issue general permits.
5. Example general permit and fact sheet for coal mines draft.

If you have any questions or comments on this material, please call Mr. Mark Stanifer of my staff at 317/232-8704.

Sincerely,

David P. Nelsen
Assistant Commissioner
Office of Water Management

MWS/dj

**INDIANA
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT**

**APPLICATION TO U.S. EPA REGION 5
For State Delegation of the
GENERAL PERMITS PROGRAM**

**IDEM
Office of Water Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015**

OCTOBER, 1990

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 - D. Indiana Regulatory Authority for General Permits**
- V. Draft General Permit for Coal Mines**

I. INDIANA GENERAL PERMIT PROGRAM DESCRIPTION

PROGRAM DESCRIPTION
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL PERMIT PROGRAM

A. Introduction

This program description is submitted in accordance with 40 CFR 123.21 and 123.22, in order to obtain approval from the U.S. Environmental Protection Agency (EPA) of the Indiana Department of Environmental Management (IDEM) administration of the General Permit Program. This program description supplements the description contained in the original application for delegation of the NPDES Program, dated September 25, 1974. The General Permit Program will be a subpart of the NPDES Program, currently administered by the IDEM.

The IDEM (through its statutory predecessor, the Stream Pollution Control Board) was delegated the NPDES Program on January 1, 1975. Subsequently Indiana received authority to administer the NPDES Program for federal facilities. The EPA delegation of the pretreatment program is pending.

The General Permit Program is designed to provide NPDES permit coverage for low priority dischargers which will either not otherwise receive an effective NPDES permit in the foreseeable future or only do so at the expense of higher priority permits. The General Permit Program will improve the administrative efficiency of the Agency's permitting program and allow staff resources to be concentrated on NPDES permits which have more significant potential for impacting water quality in the State of Indiana. General permits will be issued for several classes of dischargers where individual permits for such a class would be substantially similar. Discharges intended to be covered will include noncontact cooling water dischargers of 1 million gallons per day or less, coal mines and terminals, stone/sand/gravel quarries, returned supernatant from dredging operations, salt/petroleum/solvent contaminated groundwater remediation projects, hydrostatic test water from pipelines, and petroleum terminals/tank farms. It is estimated that there are approximately 50 noncontact cooling water discharges, 200 coal mine discharges, 70 stone/sand/gravel quarries and 35 petroleum terminals. Hydrostatic test water, returned supernatant from dredging operations, and groundwater remediation projects are often short-term discharges which may arise abruptly, such that the normal permitting process does not provide for a timely authorization for discharge. Additional types of discharges which may be covered by general permits in the future include stormwater discharges, semi public and other similar sanitary treatment plants, and discharges from potable water treatment plants.

B. Administration:

The General Permit Program will be administered for permit issuance, compliance and enforcement activities by the IDEM, Office of Water Management, Operations Branch. Current IDEM and OWM organizational charts are attached.

C. Legal Basis:

The statement of the Indiana Attorney General dated February 16, 1990 is attached confirming that the IDEM has adequate existing authority to operate the General Permit Program.

D. Special Procedures and Requirements for the Issuance and Enforcement of General Permits:

1. Applications

Applications for a general permit will be required from dischargers. The application form will be U.S. EPA Application Form 1 - General Information, plus a statement of the applicant's Notice of Intent (NOI) as well as additional narrative information regarding the number of outfalls, location, receiving stream, and type of discharges. The submission of the complete application, NOI, and supplemental information will be required before a discharger will be considered a general permit candidate. (See 327 IAC 5-2-3(d)). The general permit will contain restrictions on its coverage. (See example of draft coal mine general permit under Section IV.)

2. General Permit Development

General permits will be developed and issued in essentially the same manner as individual permits, however, the public notice will require further distribution (see below). General permits will be developed using Indiana Water Quality Standards (327 IAC 2-1), the Indiana Permits Rule (327 IAC 5, Rules 1-10, especially 327 IAC 5-4-8), any applicable USEPA effluent guidelines and any applicable IDEM guidelines and policies. General permits will be issued for a term no longer than five (5) years and may, if necessary, only be continued beyond their expiration dates based on the provision of 327 IAC 5-2-6(b). In accordance with the IDEM/EPA Memorandum of Agreement, general permits will be sent to EPA for review prior to issuance and will not be issued over the specific written objection of the EPA.

3. Public Notice

All general permits will be accompanied by a Fact Sheet outlining the derivation of the permit limits. General permits will be public noticed in accordance with USEPA regulations and Indiana Rule 327 IAC 5-3-12. The public notice will also be published in the Indiana Register.

4. Compliance/Enforcement

All dischargers will be required to submit Discharge Monitoring Reports (DMRs) in accordance with the schedule contained in the general permit (which will be established such that monitoring is conducted with sufficient frequency to be representative of the monitored activity, in accordance with 40 CFR 122.44(i) and 122.48). DMRs will be periodically reviewed for permit compliance and data will be entered into the permit compliance system (PGS). All dischargers will be inspected at least once during the life of the permit, if staff resources allow and/or if there is an indication of a noncompliance on the part of the permittee. Enforcement actions will be taken as appropriate for permit violations in accordance with the Agency's current enforcement strategy.

SHOULD RECOGNIZE
MAJORS WOULD HAVE
TO BE INSPECTED
ANNUALLY (123.26(g))

5. Applicability

If a particular discharger is designated for coverage under a general permit and requests the issuance of an individual permit, the application will be processed as an application for an individual permit in accordance with Indiana Rule 327 IAC 5-3. If a discharger, who is currently covered under a general permit, requests the issuance of an individual permit, coverage under the general permit will be considered terminated when the individual permit is issued. If a discharger is regulated by an individual permit and applies for coverage under a general permit, the discharger will be considered to be covered under the general permit when the individual permit is terminated or expires. Aggrieved parties, including permittees, may seek review of a general permit's requirements by filing a request for administrative review under the provisions of IC 13-7-10-2.5(a).

E. Manpower and Resources:

Priority for issuing general permits will be established through the Annual Program Plan. General permits will be developed on an as needed basis, using present staffing levels. It is not anticipated that the General Permit Program will result in a significant reduction in cost, but should result in a significant reduction in the chronic backlog, and more timely responses to applications. The IDEM believes that it has adequate funding under current state and federal funding levels to issue and administer the General Permit Program. Funding sources include, but are not limited to, current Federal 106 grants and an application fee for NPDES applications.

II. AMENDMENT TO 1977 MEMORANDUM OF AGREEMENT

AMENDMENT
TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT
BETWEEN
THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5

The Memorandum of Agreement between the United States Environmental Protection Agency, Region 5 (hereinafter EPA) and the Indiana Department of Environmental Management (hereinafter IDEM) is hereby amended to include IDEM and EPA responsibilities for the development, issuance and enforcement of National Pollutant Discharge Elimination System (hereinafter NPDES) general permits as follows:

The IDEM has the responsibility for developing and issuing NPDES general permits. After identifying dischargers appropriately regulated by a general permit, the IDEM will collect sufficient effluent data to develop effluent limitations and prepare the draft general permit.

Each draft general permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development and will be transmitted to the following EPA offices:

Water Management Division Director
U.S. EPA, Region 5
5WQ
230 South Dearborn Street
Chicago, Illinois 60604
and
Director, Office of Water Enforcement and Permits*
U.S. EPA (EN-335)
401 M Street SW
Washington, D.C. 20460

EPA will have up to ninety (90) days from receipt to review draft general permits and provide general comments, recommendations and objections to the IDEM. In the event EPA does object to a general permit, it will provide, in writing, the reasons for its objection and the actions necessary to eliminate the objection. The State has the right to a public hearing on the objection in accordance with 40 CFR 123.44 and Part III of the MOA. Upon receipt of EPA's objection, the State may request a public hearing. If EPA's concerns are not satisfied and the State has not sought a hearing within 90 days of the objection, exclusive authority to issue the general permit passes to EPA.

* General permits for discharges from separate storm sewers need not be sent to EPA Headquarters for review.

All general permits will be public noticed in accordance with 327 IAC 5-3-12 and 40 CFR 124.10, including publication in a daily or weekly newspaper circulated in the area to be covered by the permit. General permits will also be published in the Indiana Register. The IDEM will issue and administer NPDES general permits in accordance with 327 IAC 5, Rules 1-10 and 40 CFR 122.28.

The IDEM also has the primary responsibility for conducting compliance monitoring activities and enforcing conditions and requirements of general permits.

All specific State commitments regarding the issuance and enforcement of general permits will be determined through the annual 106 workplan/SEA process.

This Amendment to the Memorandum of Agreement will be effective upon approval of the IDEM general permits program application by the Regional Administrator of EPA Region 5.

FOR IDEM:

Kathy Grosser
Commissioner

11-28-90
(Date)

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Regional Administrator
U.S. EPA, Region 5

(Date)

III. ATTORNEY GENERAL'S STATEMENT



LINLEY E. PEARSON
ATTORNEY GENERAL

STATE OF INDIANA

ATTORNEY GENERAL
INDIANAPOLIS, INDIANA
46204

2462
Dept. of Environmental Mgmt.
Commissioner's Office
FEB 19 1990

**ATTORNEY GENERAL'S STATEMENT REGARDING
STATE AUTHORITY TO ISSUE GENERAL PERMITS**

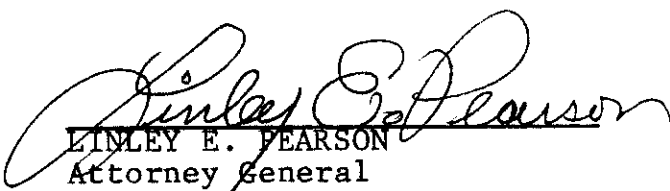
I certify, pursuant to my authority as Attorney General of the State of Indiana, that in my opinion the laws of the State of Indiana provide adequate authority for the state, through its Department of Environmental Management (Department), to implement a program for the issuance of general permits as part of its delegated NPDES permit program. The authority of the Department is found in the following state statutes which are in full force and effect on the date of this statement.

The Department is designated under IND. CODE § 13-1-4-2 as the water pollution agency for the state for purposes of the federal Water Pollution Control Act and is authorized to "take all actions necessary or appropriate to secure to the state the benefits of the federal act." See also IND. CODE § 13-7-2-15.

The Department is designated the water pollution agency for the state for purposes of the federal Safe Drinking Water Act and may take any action necessary to secure the benefits of the act for the state. IND. CODE § 13-7-2-15.

The commissioner of the Department is empowered, under IND. CODE § 13-7-3-9(a) to issue "permits, licenses, orders, and variances as authorized by (1) this article; (2) other statutes (including IC 13-1-1, IC 13-1-3, IC 13-1-5, IC 13-1-5.5, IC 13-1-5.7, and IC 13-1-12); and (3) rules of the boards."

Each state environmental board, under IND. CODE § 13-7-10 et seq., it is authorized to establish by rules the requirements and procedures for the issuance of permits. In rules for the issuance of permits, each board may: (1) prescribe standards for the discharge, emission, or disposal of contaminants and the operation of any facility, equipment, or device; and (2) impose such conditions as deemed necessary to accomplish the purposes of this article.


LINLEY E. PEARSON
Attorney General
State of Indiana

Dated: February 16, 1990

IV. SUPPORTING DOCUMENTS

- A. IDEM Outline
- B. Office of Water Management Outline
- C. Indiana Statutory Authority, as Cited by the Attorney General
 - 1. IC 13-1-4-2 Water pollution control agency for state; authority
 - 2. IC 13-7-2-15 Department designated as agency to secure benefits of federal acts for Indiana
 - 3. IC 13-7-3-9 Permits, licenses, orders and variances; issuance
 - 4. IC 13-1-3 Water Pollution Control Board
 - 5. IC 13-7-10 Permits

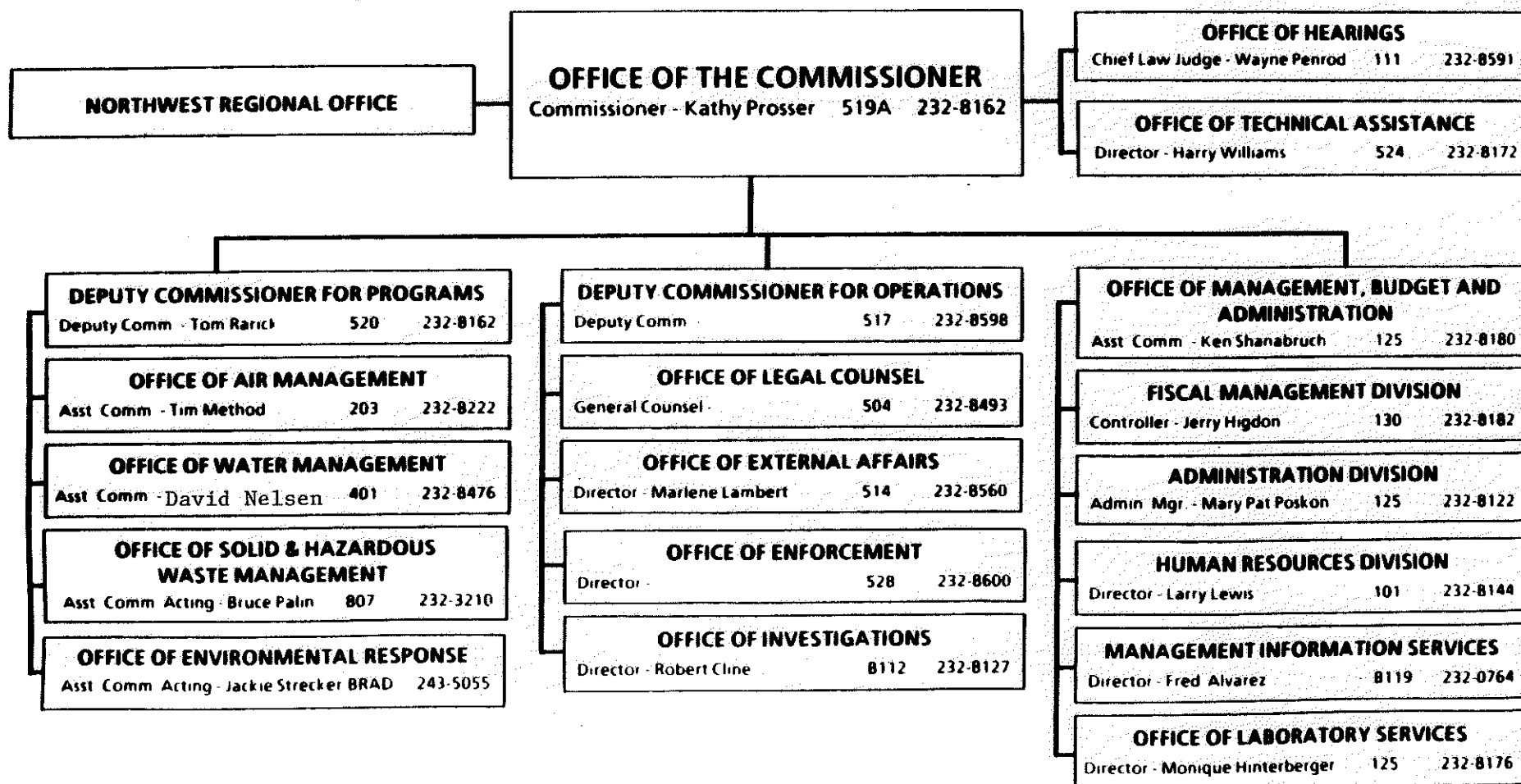
Other statutes cited by A.G. but not included are as follows;

- IC 13-1-1 Air Pollution Control Board
- IC 13-1-5 Condemnation of land
- IC 13-1-5.5 Prohibition on the sale & use of certain detergents
- IC 13-1-5.7 Confined feeding control
- and IC 13-1-12 Solid Waste Management Board

- D. Indiana Regulatory authority for general permits
 - 1. 327 IAC 5-1-1 NPDES; purpose
 - 2. The applicable definitions from 327 IAC 5-1-2
 - 3. 327 IAC 5-2-3 Application for a permit
 - 4. 327 IAC 5-3-5 Permits required on a case-by-case basis
 - 5. 327 IAC 5-3-6 Tentative permit decisions and draft permits
 - 6. 327 IAC 5-3-8 Fact sheet
 - 7. 327 IAC 5-3-12 Public notice
 - 8. 327 IAC 5-3-14 Issuance and effective date
 - 9. 327 IAC 5-4-8 General permit program

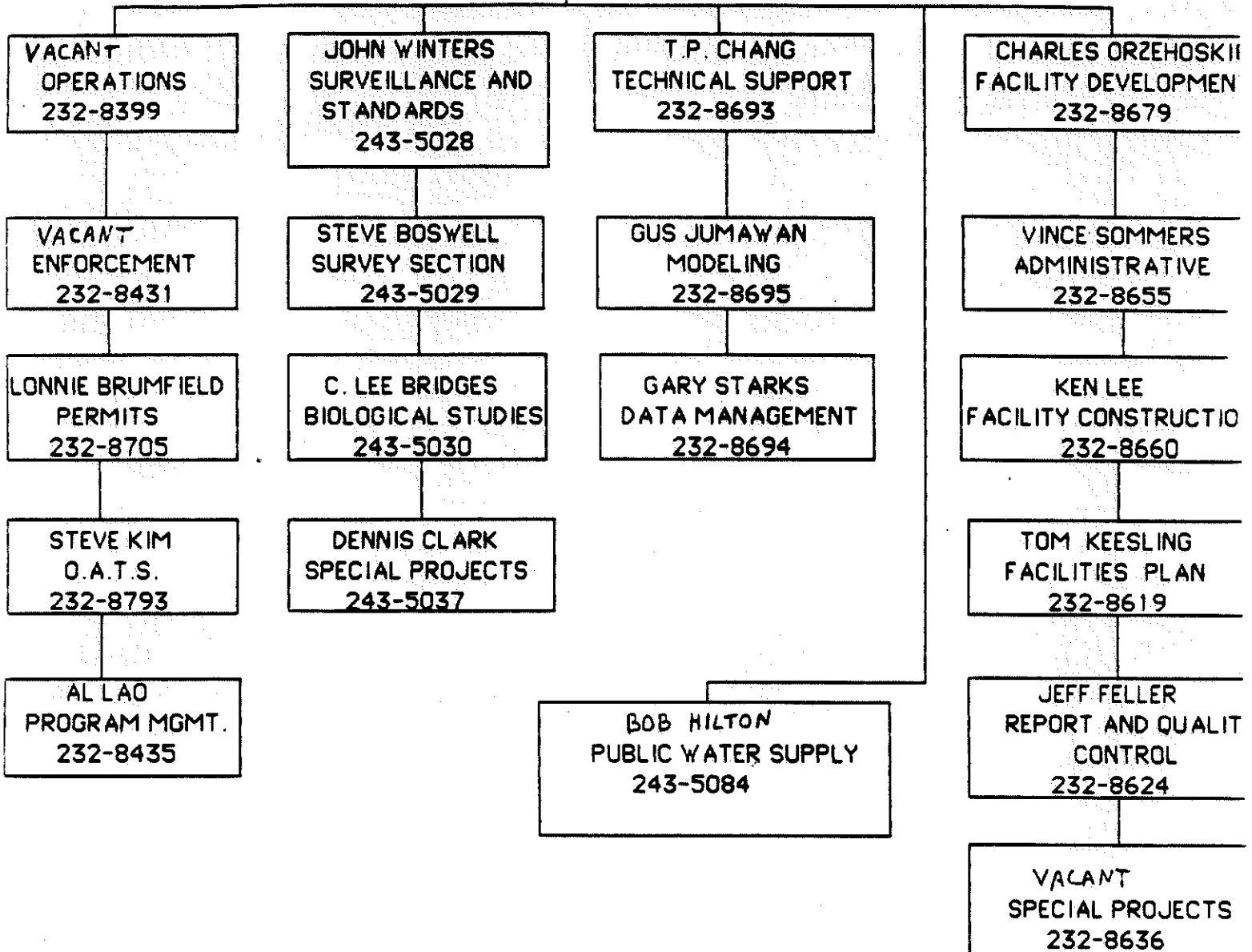


INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



OFFICE OF WATER MANAGEMENT

DAVID P. NELSEN
ASSISTANT COMMISSIONER
(317) 232-8476



OPERATIONS BRANCH

The Permit Section is broken down into three permitting groups.

NPDES Group Leader - Joe Krieger 232-8706

The NPDES permits group issues, reissues and modifies NPDES permits.

Pretreatment Group Leader - Philip Preston

The Pretreatment Group issues industrial pretreatment permits and conducts pretreatment audits of municipally managed programs.

Land Application Group - Pat Carroll 232-8736

The Land Application Group issues land application permits for wastewater and sludge programs and administers the Confined Feeding program.

The Enforcement Section monitors the Compliance status of NPDES permittees and initiates all enforcement actions that may be necessary within the Office of Water Management.

Two new sections were recently created. The Operator Assistance and Training Section assists primarily smaller facilities with the operation of their wastewater treatment facilities.

The Program Management Section provides overall assistance for program management and handle special projects.

WATER QUALITY SURVEILLANCE and STANDARDS BRANCH

The Survey Section is comprised of two groups.

Surveillance Group Leader - Mark Holdeman - 243-5154

The Surveillance Group conducts physical chemical and bacteriological surveys of rivers and streams to identify water quality trends, support mathematical modeling and conduct sampling inspections of wastewater treatment facilities.

Inspections Group Leader - Ron Pearson - 243-5135

The Inspections Group makes periodic inspections of wastewater treatment facilities to ensure that they are being properly operated and maintained and that laboratory methods employed by facility personnel are appropriate and responds to investigate water pollution related concerns.

The Biological Studies Section evaluates the habitat present in various stream reaches to determine the extent to which they are affected by point and/or nonpoint sources of pollution, conducts bioassays of wastewater to identify the effect of toxic substances and conducts surveys of lakes and reservoirs to obtain data required to classify them according to their trophic nature and to prepare lake and reservoir management plans.

This section reviews and recommends revisions to water quality standards, reviews applications for U.S. Army Corps of Engineers dredge and fill permits and is developing, in cooperation with other state and federal agencies, the nonpoint source control program for the agency.

FACILITIES DEVELOPMENT BRANCH

The Administrative Section administers the award of construction grant funds to communities by processing grant payment requests; also reviews intermunicipal agreements, user charge systems, sewer rate ordinances, and land acquisition procedures.

The Facility Construction Section issues construction permits for all water pollution control devices including municipal and industrial facilities and reviews and approves change orders and grant amendments for the construction of sewage treatment and/or transportation facilities under the construction grants program.

The Facilities Plan Section reviews and approves facilities plans and associated environmental impact statements or environmental assessments for sewage treatment and/or transportation facilities funded under the Clean Water Act, Construction Grants program.

The Report and Quality Control Section assists the Facilities Development Branch Chief in the planning, monitoring, and control of the Construction Grants program to ensure a coordinated program.

The Special Projects Section provides technical support to the Facilities Development Branch Chief in the areas dealing with innovative or alternative technologies; review of combined sewer overflow proposals and sludge management proposals; and technology evaluations of failed technologies put on line through the Construction Grant program.

TECHNICAL SUPPORT BRANCH

The Modeling and Engineering Services Section reviews and designs stream water quality models, conducts controlled discharge analyses, and recommends wasteload allocations for municipal and industrial dischargers. The Section also reviews CSO modeling and toxic substance fate modeling reports submitted by dischargers or consultants.

The Data Management Section has the responsibility of supporting the various Water Management programs with management of their information needs. During the current fiscal year, the major emphasis are maintaining the water quality data system (STORET) and the Permit Compliance System (PCS). The Section also provides staff training for users of the various computer systems available to the Office of Water Management.

13-1-3-15

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13-1-3-15 Extensions of time; civil penalties

Effective July 1, 1986

Sec. 15. (a) The commissioner may, in the commissioner's discretion, extend the time fixed in any final order issued under this chapter, within which any offender is ordered to correct or abate a condition of pollution of any water or waters, upon written petition filed with the department not less than thirty (30) days prior to the time fixed in the order, if it appears that a good faith effort to comply with the order is being made and that it will be impossible for the offender to complete the project of work undertaken within the time fixed.

*Not finally
penalty
\$100/day*

(b) Any person who fails or refuses to correct or abate the polluted condition in compliance with the order within the time fixed or within the time additionally granted under this section shall be subject to a penalty of one hundred dollars (\$100) for each day that the polluted condition continues to exist after the time fixed, or as additionally granted, which may be recovered in a civil suit brought in the name of the state, and which shall be in addition to the penalties provided in section 14 of this chapter.

(c) The attorney general shall prosecute all actions for penalties under this section, and all penalties recovered shall be paid into the environmental management special fund created under IC 13-7-13-2. The penalties accruing for any two (2) or more days under this section may be recovered in one (1) complaint and may be joined in one (1) paragraph of the complaint. However, no order of the commissioner is enforceable in cases where material, supplies, and labor are unavailable. (Formerly: Acts 1943, c.214, s.15). As amended by P.L.143-1985, SEC.26.

13-1-3-16 Definitions

Sec. 16. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

13-1-3-17 Liberal construction

Effective July 1, 1986

Sec. 17. Being necessary for the public health, safety, and welfare, this chapter shall be liberally construed to effectuate its purposes. (Formerly: Acts 1943, c.214, s.17). As amended by P.L.143-1985, SEC.27.

13-1-3-18 Effect on other laws

Sec. 18. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

Chapter 4. Department of Environmental Management—State Agent Under Federal Law.

13-1-4-1 Definitions

13-1-4-2 Water pollution agency for state; authority
13-1-4-3 Powers; cooperation with federal agencies, federal funds, approval of projects, participation

13-1-4-1 Definitions

Effective July 1, 1986

Sec. 1. (a) "Federal act" means the Water Pollution Control Act, as defined in IC 13-7-1-10.

(b) "Surgeon general" means the surgeon general of the public health service of the United States.

(c) "Federal security administrator" means the administrator of the federal security agency.

(d) "Interstate agency" means an agency of two (2) or more states having powers or duties pertaining to the abatement of pollution of water.

(e) "Department" refers to the department of environmental management.

(f) The definitions in this section apply to sections 2 and 3 of this chapter. (Formerly: Acts 1949, c.137, s.1). As amended by P.L.143-1985, SEC.28.

13-1-4-2 Water pollution agency for state; authority

Effective July 1, 1986

Sec. 2. The department is designated as water pollution agency for this state for all

purposes of the federal act and is authorized to take all action necessary or appropriate to secure to this state the benefits of the federal act. (Formerly: Acts 1949, c.137, s.2). As amended by P.L.143-1985, SEC.29.

13-1-4-3 Powers; cooperation with federal agencies, federal funds, approval of projects, participation
Effective July 1, 1986

Sec. 3. In carrying out the purposes of section 2 of this chapter, the department, in addition to any other action which may be necessary or appropriate to carry out the purpose of section 2 of this chapter, is authorized to do the following:

(1) To cooperate with the surgeon general and other agencies of the federal government, other states, interstate agencies, and other interested parties in all matters relating to water pollution, including the development of programs for eliminating or reducing pollution and improving the sanitary condition of waters.

(2) On behalf of this state, to apply for and receive funds made available to the department under the federal act by any agency of the federal government. However, all money received from any federal agency shall be paid into the state treasury and shall be expended, under the direction of the department, solely for the purpose or purposes for which the grant or grants shall have been made.

(3) To approve projects for which application for loans or grants under the federal act is made by any political subdivision or other public body created by or pursuant to the laws of this state and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, by an agency of this state, or by an interstate agency.

(4) To participate through its authorized representatives in proceedings under the federal act.

(5) To give consent on behalf of this state to requests by the federal security administrator to the Attorney General of the United

States for the bringing of suit for abatement of such pollution.

(6) To consent to the joinder as a defendant in such a suit of any person who is alleged to be discharging matter contributing to the pollution, abatement of which is sought in the suit.

(Formerly: Acts 1949, c.137, s.3). As amended by P.L.143-1985, SEC.30.

Chapter 5. Condemnation of Land Under Order of Department of Environmental Management.

13-1-5-1 Eminent domain; exercise of power to comply with pollution abatement order

13-1-5-2 Necessity for condemnation; hearing

13-1-5-1 Eminent domain; exercise of power to comply with pollution abatement order

Effective July 1, 1986

Sec. 1. Any person, persons, firm, partnership, corporation, association, or other legal entity doing business in Indiana that is ordered by the department of environmental management to control, treat, dispose, or cease discharging industrial and sanitary wastes into the waters of this state is authorized and empowered to take, acquire, condemn, and appropriate real property or any interest therein necessary to comply with the order of the department. (Formerly: Acts 1957, c.152, s.1). As amended by P.L.143-1985, SEC.31.

13-1-5-2 Necessity for condemnation; hearing

Effective July 1, 1986

Sec. 2. The owner whose land or lands may be affected by an order under section 1 of this chapter may appear before and be heard by the department of environmental management with respect to the necessity of condemning his land or lands for the enforcement of the order. The hearing shall be conducted subsequent to the issuance of the order and prior to the commencement of the condemnation proceedings contemplated by this chapter. The hearing shall be in accordance with IC 4-22-1. If

Dept. designated as agency

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ENVIRONMENT

13-7-3

- (1) An office dealing with environmental emergencies.
- (2) An office for communications with the public.
- (3) A hearings office including the department's hearing officers.
- (4) An office to lend technical assistance concerning compliance with environmental requirements, upon request, to small businesses and units of local government.
- (5) An office to conduct investigations.

(b) The department must include the following divisions:

- (1) An air pollution control division.
- (2) A water pollution control division.
- (3) A solid waste management division.
- (4) A laboratory division.
- (5) An administrative services division.

(c) The commissioner may create other offices and divisions and may delegate authority to appropriate department staff.

(d) The commissioner has the duties set forth in IC 13-7-3 and the powers set forth in IC 13-7-5. *As added by P.L.143-1985, SEC.98.*

13-7-2-14 Positions subject to state personnel department; positions subject to state merit employment; hearing officers

Effective July 1, 1986

Sec. 14. (a) The position of commissioner, the highest position in each of the offices (except for the offices identified in sections 13(a)(1), (3), (4), and (5) of this chapter), and the highest position in each of the divisions of the department (except for the division identified in section 13(b)(4) of this chapter) are subject to IC 4-15-1.8. The other positions in the department are subject to IC 4-15-2. Employees subject to IC 4-15-2 who accept positions under IC 4-15-1.8 have the option of returning to the first available position under IC 4-15-2 to which they are qualified.

(b) The commissioner shall appoint hearing officers and shall ensure the independence of employees of the department who serve as

hearing officers. Hearing officers may not participate in investigation or enforcement activities, in the preparation of proposed rules, or in any other department activity that might compromise their independence. Hearing officers may conduct adjudicatory hearings under IC 4-22-1 on behalf of the boards or the department. *As added by P.L.143-1985, SEC.99.*

13-7-2-15 Department designated as agency to secure benefits of federal acts for Indiana

Effective July 1, 1986

Sec. 15. The department is designated:

- (1) the water pollution agency for Indiana for all purposes of the Federal Water Pollution Control Act;
- (2) the solid waste agency for Indiana for all purposes of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended;
- (3) the air pollution control agency for Indiana for all purposes of the Clean Air Act, 42 U.S.C. 7401 et seq., as amended; and
- (4) the state agency with responsibility concerning the Midwest Interstate Compact on Low-Level Radioactive Waste (IC 13-5-9).

The department may take any action necessary to secure the benefits of these acts for Indiana. *As added by P.L.143-1985, SEC.100.*

Chapter 3. Duties of the Board.

- 13-7-3-2.5 Solid and hazardous waste materials information exchange
- 13-7-3-3 Program of continuing surveillance and inspection
- 13-7-3-4 Assurance of accomplishment of programs established
- 13-7-3-5 Compliance with standards and rules
- 13-7-3-6 Public awareness and participation
- 13-7-3-7 Proposed budget; preparation
- 13-7-3-8 Financing structure; proposal
- 13-7-3-9 Permits, licenses, orders and variances; issuance
- 13-7-3-10 Programs and facilities; assistance to local units
- 13-7-3-11 Operating policies
- 13-7-3-12 Enforcement of rules
- 13-7-3-13 Monitoring and reporting requirements

13-7-3-1

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13-7-3-1 Duties of board

Sec. 1. (*History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207.*)

13-7-3-2.5 Solid and hazardous waste materials information exchange

Effective January 1, 1986

Sec. 2.5. (a) The board shall establish a solid and hazardous waste materials exchange to provide for the exchange, between interested persons, of information concerning:

- (1) particular quantities of solid waste and hazardous waste available in Indiana for recovery;
- (2) persons interested in acquiring certain types of solid waste or hazardous waste for purposes of recovery; and
- (3) methods for the treatment and recovery of solid waste and hazardous waste in Indiana.

(b) The solid and hazardous waste materials exchange created under subsection (a) may be operated under one (1) or more reciprocity agreements allowing for the exchange of information described in subsection (a) for similar information from programs operated in other states.

(c) Notwithstanding subsection (a), the board may contract with a private organization for:

- (1) the establishment;
 - (2) the operation; or
 - (3) both the establishment and the operation;
- of the solid and hazardous waste materials exchange.

(d) The board may adopt rules under IC 4-22-2 concerning the establishment and operation of the solid and hazardous waste materials exchange. *As added by P.L.152-1985, SEC.1.*

13-7-3-3 Program of continuing surveillance and inspection

Effective July 1, 1986

Sec. 3. The department shall conduct a program of continuing surveillance and inspection of solid waste management sites and actual or threatened sources of environmental pollution

by contamination, radiation, odor, or noise. *As added by P.L.143-1985, SEC.101.*

13-7-3-4 Assurance of accomplishment of programs established

Effective July 1, 1986

Sec. 4. The department shall assure accomplishment of the comprehensive, long-term programs established by the boards. *As added by P.L.143-1985, SEC.102.*

13-7-3-5 Compliance with standards and rules

Effective July 1, 1986

Sec. 5. The department shall procure compliance with standards and rules adopted by the boards. *As added by P.L.143-1985, SEC.103.*

13-7-3-6 Public awareness and participation

Effective July 1, 1986

Sec. 6. The department shall develop and implement a program of public awareness and participation to assure maximum citizen involvement in the evolution and continuation of the environmental programs of the state. *As added by P.L.143-1985, SEC.104.*

13-7-3-7 Proposed budget; preparation

Effective July 1, 1986

Sec. 7. The commissioner shall prepare the proposed budget of the department and the boards. *As added by P.L.143-1985, SEC.105.*

13-7-3-8 Financing structure; proposal

Effective July 1, 1986

Sec. 8. The commissioner may propose financing structure to the boards. *As added by P.L.143-1985, SEC.106.*

13-7-3-9 Permits, licenses, orders and variances; issuance

Effective July 1, 1986

Sec. 9. The commissioner shall issue permits, licenses, orders, and variances as authorized by this article, by other statutes (including IC 13-1-1, IC 13-1-3, IC 13-1-5, IC

13-1-5.5, IC 13-1-5.7, and IC 13-1-12), and by rules of the boards. *As added by P.L.143-1985, SEC.107.*

13-7-3-10 Programs and facilities; assistance to local units

Effective July 1, 1986

Sec. 10. The department shall encourage and assist local units of government in developing programs and facilities for air, water, radiation, odor, and noise pollution control, wastewater treatment, water resource development, and solid waste management. *As added by P.L.143-1985, SEC.108.*

13-7-3-11 Operating policies

Effective July 1, 1986

Sec. 11. The department shall follow the operating policies established in rules adopted by the boards. *As added by P.L.143-1985, SEC.109.*

13-7-3-12 Enforcement of rules

Effective July 1, 1986

Sec. 12. The commissioner shall enforce rules consistent with the purposes of IC 13-1-1, IC 13-1-3, IC 13-1-5, IC 13-1-5.5, IC 13-1-5.7, IC 13-1-12, and IC 36-9-30. *As added by P.L.143-1985, SEC.110.*

13-7-3-13 Monitoring and reporting requirements

Effective July 1, 1986

Sec. 13. The commissioner shall establish and administer monitoring and reporting requirements as necessary to carry out the duties and exercise the powers provided in this article. *As added by P.L.143-1985, SEC.111.*

Chapter 4. Acts Prohibited.

13-7-4-1¹ Specific acts prohibited

13-7-4-1² Specific acts prohibited

¹ P.L.171-1983, SEC.1

² P.L.143-1985, SEC.112

13-7-4-1 Specific acts prohibited

Text as amended by P.L.171-1983, SEC.1, effective until July 1, 1986

Sec. 1. No person shall:

(a) discharge, emit, cause, allow, or threaten to discharge, emit, cause or allow any contaminant or waste including any noxious odor, either alone or in combination with contaminants from other sources, into the environment or into any publicly-owned treatment works in any form which causes or would cause pollution which violates or would violate regulations, standards, or discharge or emission requirements adopted by the board or the appropriate agency pursuant to this article;

(b) increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this state without prior approval of the appropriate agency;

(c) deposit any contaminants upon the land in such place and manner which creates, or which would create, a pollution hazard;

(d) dump or cause or allow the open dumping of garbage or of any other solid waste in violation of regulations adopted by the appropriate agency;

(e) dispose of solid waste in, upon, or within the limits of or adjacent to any public highway, state park, state nature preserve or recreation area, or in or immediately adjacent to any lake or stream except in proper containers provided for sanitary storage of such solid waste, or except as a part of a sanitary landfill operation or other land disposal method approved by the appropriate agency;

(f) construct, install, operate, conduct, or modify, without prior approval of the board or an appropriate agency, any equipment or facility of any type which may cause or contribute to pollution or which may be designed to prevent pollution: however, the board or the appropriate agency may approve

(c) The notification prescribed by subsection (b) must be given in writing delivered by first class mail or by a faster means of delivery to the sheriff of each county through which the shipment of nuclear waste is to pass within twenty-four (24) hours after the governor or his designee receives advance notification of the shipment, under 10 C.F.R. 71.5a and 71.5b.

(d) If the governor or his designee is notified, under 10 C.F.R. 71.5a and 71.5b, that the schedule for a shipment of nuclear waste will not be met or that a shipment of nuclear waste has been canceled, he shall notify each sheriff previously notified about the shipment as to its delay or cancellation. The notification given by the governor or his designee under this subsection must be provided under the same requirements prescribed in subsection (c) for the initial notification of sheriffs. *As added by P.L.61-1984, SEC.3.*

Chapter 3. Water Pollution Control Board.

- 13-1-3-1 Creation of board
- 13-1-3-1.5 Definitions
- 13-1-3-2 Members; appointment, vacancies, compensation
- 13-1-3-3 Meetings; officers; technical secretary; quorum
- 13-1-3-4 Powers and duties of board; adoption of rules; development of operating policies; hearing of administrative appeals; etc.
- 13-1-3-5 Enforcement actions; orders for disposal or treatment of plants; sealing of mines, wells, etc.
- 13-1-3-6 Entry upon property, purposes; assistance from other state departments, agencies or institutions
- 13-1-3-7 Water qualities and properties indicating pollution; rules restricting polluting content discharged into streams
- 13-1-3-8 Unlawful discharge of deleterious substances
- 13-1-3-8.1 Notice of violation; service; contents
- 13-1-3-10 Approval of plans and specifications for abatement of polluted condition
- 13-1-3-12 Compliance with final order; compliance by municipality, bond issue, sanitary fund
- 13-1-3-13 Municipal pollution control works, law governing
- 13-1-3-14 Failure to comply with final order; Class B misdemeanor
- 13-1-3-15 Extensions of time; civil penalties
- 13-1-3-17 Liberal construction

13-1-3-1 Creation of board

Effective July 1, 1986

Sec. 1. There is created a board to be known as the water pollution control board. *(Formerly: Acts 1943, c.214, s.1). As amended by P.L.143-1985, SEC.12.*

13-1-3-1.5 Definitions

Effective July 1, 1986

Sec. 1.5. As used in this chapter:

"Board" refers to the water pollution control board created under section 1 of this chapter.

"Commissioner" refers to the commissioner of the department of environmental management.

"Department" refers to the department of environmental management created under IC 13-7-2.

"Person" has the meaning set forth in IC 13-7-1.

"Water pollution" has the meaning set forth in IC 13-7-1.

"Waters" has the meaning set forth in IC 13-7-1. *As added by P.L.143-1985, SEC.13.*

13-1-3-2 Members; appointment, vacancies, compensation

Effective July 1, 1986

Sec. 2. (a) The powers and duties of the water pollution control board are vested in a nine (9) member board. The secretary of the state board of health, the director of the department of natural resources, and the lieutenant governor shall serve as ex officio members of the board. An ex officio member may designate in writing a technical representative to serve as a voting member of the board when he is unable to attend a board meeting. The remaining six (6) members of the board shall be appointed by the governor, who shall appoint:

- (1) one (1) representative of agriculture;
- (2) one (1) representative of business and industry;
- (3) one (1) representative of environmental interests;

- (4) one (1) representative of labor;
- (5) one (1) representative of local government; and
- (6) one (1) physician who holds an unlimited license to practice medicine in Indiana.

(b) An appointed member of the board shall serve a term of four (4) years, and no more than three (3) of the appointed members may be members of the same political party. The governor shall fill any vacancy occurring in the appointed membership of the board for the unexpired term thereof and may remove any appointed member for cause.

(c) Ex officio members of the board shall serve without additional compensation. An appointed member is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b), and is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. (Formerly: Acts 1943, c.214, s.2; Acts 1945, c.132, s.1; Acts 1957, c.64, s.1). As amended by Acts 1978, P.L.74, SEC.1; P.L.143-1985, SEC.14.

13-1-3-3 Meetings; officers; technical secretary; quorum

Effective July 1, 1986

Sec. 3. (a) The board shall hold at least six (6) regular meetings each calendar year at a place and time to be fixed by the board. The governor shall annually select one (1) of the appointed members to serve as chairman and one (1) of the appointed members to serve as vice chairman.

(b) The commissioner, or the commissioner's designee, shall serve as technical secretary of the board, but is to receive no additional compensation for serving as technical secretary. Between meetings of the board, the technical secretary shall handle correspondence, make or arrange for investigations and surveys, and obtain, assemble, or prepare reports and data as directed by the board.

(c) Special meetings may be called by the chairman or by two (2) members of the board by delivery of written notice at the office of each member of the board. Five (5) members of the board, three (3) of which must be appointed members of the board, constitute a quorum. (Formerly: Acts 1943, c.214, s.3; Acts 1945, c.132, s.2). As amended by P.L.143-1985, SEC.15.

13-1-3-4 Powers and duties of board; adoption of rules; development of operating policies; hearing of administrative appeals; etc.

Effective July 1, 1986

Sec. 4. (a) The water pollution control board shall adopt rules for the control and prevention of pollution in waters of this state with any substance which is deleterious to the public health or to the prosecution of any industry or lawful occupation, or whereby any fish life or any beneficial animal or vegetable life may be destroyed or the growth or propagation thereof prevented or injuriously affected. The board may adopt rules under IC 4-22-2 that are necessary to the implementation of the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.), as amended.

(b) The board shall develop operating policies governing the implementation of this chapter by the department.

(c) The board shall hear under IC 4-22-1 administrative appeals of orders and determinations of the commissioner.

(d) The board shall carry out other duties imposed by law. (Formerly: Acts 1943, c.214, s.4). As amended by P.L.143-1985, SEC.16.

13-1-3-5 Enforcement actions; orders for disposal or treatment of plants; sealing of mines, wells, etc.

Effective July 1, 1986

Sec. 5. The department may bring any appropriate action in law or in equity in the name of the state as may be necessary to carry out this chapter, and to enforce any and all laws and orders relating to the pollution of waters of

this state, as provided in this chapter. The commissioner may, under IC 4-22-1, order any person, corporation, municipal corporation, partnership, or legal entity to acquire, construct, repair, alter, or extend such plants as may be necessary for the disposal or treatment of organic or inorganic matter which is causing, contributing to, or about to cause or contribute to a polluted condition of the waters of this state. The commissioner may require the sealing of mines, oil and gas wells, brine wells, or any other subterranean strata causing, contributing to, or about to cause or contribute to a polluted condition of the waters of this state. (Formerly: Acts 1943, c.214, s.5). As amended by P.L.143-1985, SEC.17.

13-1-3-6 Entry upon property, purposes; assistance from other state departments, agencies or institutions

Effective July 1, 1986

Sec. 6. The department has the right, through any authorized agent, to enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions relating to the pollution of any water of this state. The department may call upon any state officer, board, department, school, university, or other state institution, and the officers or employees thereof, and receive any assistance necessary to carrying out this chapter. (Formerly: Acts 1943, c.214, s.6). As amended by P.L.143-1985, SEC.18.

13-1-3-7 Water qualities and properties indicating pollution; rules restricting polluting content discharged into streams

Effective July 1, 1986

Sec. 7. (a) The water pollution control board, by rules adopted under IC 4-22-2, may determine what qualities and properties of water shall indicate a polluted condition of the water in any of the streams or waters of this state that shall be deleterious to the public health or to the prosecution of any industry or

lawful occupation for which or in which any waters may be lawfully used or employed, or whereby the carrying on of any agricultural, floricultural, or horticultural pursuit may be or shall be injuriously affected, or whereby the lawful conduct of any livestock industry or the use of any waters for domestic animals may be prevented, injuriously affected, or impaired, or whereby any lawful use of any waters by the state of Indiana or by any political subdivision, corporation, municipal corporation, association, partnership, person, or any other legal entity may be lessened or impaired or materially interfered with, or whereby any fish life or any beneficial animal or vegetable life in the waters may be destroyed or the growth or propagation thereof prevented or injuriously affected.

(b) Any rule or determination made by the board or the commissioner under this section shall be filed of record in the office of the department.

(c) The board may adopt rules restricting the polluting content of any waste material and polluting substances discharged or sought to be discharged into any of the streams or waters of this state.

(d) The commissioner may take appropriate steps to prevent any pollution that is determined to be unreasonable and against public interests in view of the condition in any stream or other waters of this state. (Formerly: Acts 1943, c.214, s.7). As amended by P.L.143-1985, SEC.19.

13-1-3-7.5 Proposed rules; review by state board of health; written comments

Sec. 7.5. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

13-1-3-8 Unlawful discharge of deleterious substances

Effective July 1, 1986

Sec. 8. It is unlawful for any person to throw, run, drain, or otherwise dispose into any of the streams or waters of this state, or to cause, permit, or suffer to be thrown, run,

drained, allowed to seep, or otherwise disposed into any waters, any organic or inorganic matter that shall cause or contribute to a polluted condition of any waters, according to any rule of the board under section 7 of this chapter determining what constitutes a polluted condition of any waters that shall be deleterious to the public health or to the prosecution of any industry or lawful occupation for which or in which any waters may be lawfully used or employed, or whereby the carrying on of any agricultural, floricultural, or horticultural pursuit may or shall be adversely affected, or whereby the lawful conduct of any livestock industry or the use of any waters by or for domestic animals may be prevented, injuriously affected, or impaired, or whereby any lawful use of any waters by the state of Indiana or any political subdivision, corporation, municipal corporation, association, partnership, person, or any other legal entity may be lessened or impaired or materially interfered with, or whereby any fish life or any beneficial animal or vegetable life in any waters may be destroyed or the growth or propagation thereof prevented or injuriously affected. (Formerly: Acts 1943, c.214, s.8). As amended by P.L.143-1985, SEC.20.

13-1-3-8.1 Notice of violation; service; contents

Effective July 1, 1986

Sec. 8.1. (a) Whenever the commissioner determines that a person is violating or is about to violate section 8 of this chapter, the department shall serve notice on the person by registered mail of the commissioner's determination, and shall include in the notice an order against the person to cease the violation and to abate the condition of pollution, fixing in the order a reasonable time within which the correction and abatement must take place.

(b) Proceedings concerning an order issued under this section are governed by IC 4-22-1.
As added by P.L.143-1985, SEC.21.

13-1-3-9 Determination of violation, notice order to cease and abate, compliance report; hearing, request, time, procedure; final order

Sec. 9. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

13-1-3-10 Approval of plans and specifications for abatement of polluted condition

Effective July 1, 1986

Sec. 10. All plans and specifications for abatement or correction of any polluted condition shall be approved by the commissioner. The department shall advise and consult, on request, with any person planning any correction or prevention of any pollution condition of any water of this state. (Formerly: Acts 1943, c.214, s.10). As amended by P.L.143-1985, SEC.22.

13-1-3-11 Enforcement action; jurisdiction; appeal

Sec. 11. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

13-1-3-12 Compliance with final order; compliance by municipality, bond issue, sanitary fund

Effective July 1, 1986

Sec. 12. (a) Any person upon whom a final order is served under this chapter shall take such steps as may be necessary to comply with the final order. If the offender is a municipal corporation, the cost of acquisition, construction, repair, alteration, or extension of the necessary plants, machinery, or works, or of taking such other steps as may be necessary to comply with the order, shall be paid out of funds on hand available for these purposes or out of the general funds of the municipal corporation not otherwise appropriated. If there are not sufficient funds on hand or unappropriated, then the necessary funds shall be raised by the issuance of bonds. Such a bond issue is subject only to the approval of the Indiana tax board.

(b) If the estimated cost of the steps necessary for a municipal corporation to comply with a final order is such that the bond issue necessary to finance the project would not raise the total outstanding bonded indebtedness of the municipal corporation in excess of the constitutional limit, the necessary bonds may be issued as a direct obligation of the municipal corporation and may be retired by a general tax levy against all the property within the limit of the municipal corporation listed and assessed for taxation. If the amount of the bonds necessary to be issued would raise the total outstanding bonded indebtedness of the municipal corporation above the constitutional limitation, or if the municipal corporation determines against the issuance of direct obligation bonds, then the municipal corporation shall issue revenue bonds and provide for the retirement thereof, in the same manner and subject to the same conditions as provided for the issuance and retirement of bonds in IC 36-9-23 in so far as the provisions of that statute are applicable and are not in conflict with any of the express provisions of this chapter. However, IC 36-9-23-12 does not apply to bond issues proposed by any municipal corporation to comply with a final order issued under the authority of this chapter, and objections or submission to the qualified voters of the municipal corporation shall not be authorized, nor shall the same, if had, operate to justify or excuse failure to comply with the final order.

(c) The funds made available by the issuance of either direct obligation bonds or revenue bonds as provided by this chapter shall constitute a sanitary fund and shall be used for no other purpose than for carrying out the order or orders issued under this chapter. (Formerly: Acts 1943, c.214, s.12). As amended by P.L.143-1985, SEC.23.

13-1-3-13 Municipal pollution control works, law governing
Effective July 1, 1986

Sec. 13. The construction, acquisition, improvement, equipment, custody, operation, repair, and maintenance of any plant, machinery,

or works by any municipal corporation, in compliance with a final order of the commissioner, other than the financing thereof and the rights, powers, and duties of the municipal corporation and the respective officers and departments thereof, whether the same be financed by the issuance of revenue or direct obligation bonds, shall be governed by IC 36-9-23, in so far as the provisions of IC 36-9-23 are applicable and are not in conflict with any of the express provisions of this chapter. However, IC 36-9-23-12 does not apply to the construction, acquisition, equipping, improvement, repair, or maintenance of any plants, machinery, or works, by any municipal corporation, in compliance with a final order issued under this chapter, and the objections or submission to the qualified voters of the municipal corporation shall not be authorized, nor shall the same, if had, operate to justify or excuse failure to comply with the final order, nor shall any provisions of IC 36-9-23 be deemed to allow the municipal corporation or any of the officers thereof a discretion in the manner of complying with the order, but the same shall be mandatory. (Formerly: Acts 1943, c.214, s.13). As amended by P.L.143-1985, SEC.24.

13-1-3-14 Failure to comply with final order; Class B misdemeanor

Effective July 1, 1986

Sec. 14. (a) Failure of a municipal corporation or of the board of directors or other governing body of any private corporation, association, or other legal entity to provide for the financing and construction of such works as may be necessary to carry out a final order issued under this chapter by appropriate ordinance or resolution constitutes failure to begin appropriate action or proceedings to comply with the order.

(b) A person who fails to discharge any duty imposed upon him by this chapter commits a Class B misdemeanor. (Formerly: Acts 1943, c.214, s.14). As amended by Acts 1978, P.L.2, SEC.1304; P.L.143-1985, SEC.25.

13-1-3-15 Extensions of time; civil penalties

Effective July 1, 1986

Sec. 15. (a) The commissioner may, in the commissioner's discretion, extend the time fixed in any final order issued under this chapter, within which any offender is ordered to correct or abate a condition of pollution of any water or waters, upon written petition filed with the department not less than thirty (30) days prior to the time fixed in the order, if it appears that a good faith effort to comply with the order is being made and that it will be impossible for the offender to complete the project of work undertaken within the time fixed.

*Not finally
penalty
\$100 day*

(b) Any person who fails or refuses to correct or abate the polluted condition in compliance with the order within the time fixed or within the time additionally granted under this section shall be subject to a penalty of one hundred dollars (\$100) for each day that the polluted condition continues to exist after the time fixed, or as additionally granted, which may be recovered in a civil suit brought in the name of the state, and which shall be in addition to the penalties provided in section 14 of this chapter.

(c) The attorney general shall prosecute all actions for penalties under this section, and all penalties recovered shall be paid into the environmental management special fund created under IC 13-7-13-2. The penalties accruing for any two (2) or more days under this section may be recovered in one (1) complaint and may be joined in one (1) paragraph of the complaint. However, no order of the commissioner is enforceable in cases where material, supplies, and labor are unavailable. (Formerly: Acts 1943, c.214, s.15). As amended by P.L.143-1985, SEC.26.

13-1-3-16 Definitions

Sec. 16. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

13-1-3-17 Liberal construction
Effective July 1, 1986

Sec. 17. Being necessary for the public health, safety, and welfare, this chapter shall be liberally construed to effectuate its purposes. (Formerly: Acts 1943, c.214, s.17). As amended by P.L.143-1985, SEC.27.

13-1-3-18 Effect on other laws

Sec. 18. (History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).

Chapter 4. Department of Environmental Management—State Agent Under Federal Law.

13-1-4-1 Definitions

13-1-4-2 Water pollution agency for state; authority
13-1-4-3 Powers; cooperation with federal agencies, federal funds, approval of projects, participation

13-1-4-1 Definitions

Effective July 1, 1986

Sec. 1. (a) "Federal act" means the Water Pollution Control Act, as defined in IC 13-7-1-10.

(b) "Surgeon general" means the surgeon general of the public health service of the United States.

(c) "Federal security administrator" means the administrator of the federal security agency.

(d) "Interstate agency" means an agency of two (2) or more states having powers or duties pertaining to the abatement of pollution of water.

(e) "Department" refers to the department of environmental management.

(f) The definitions in this section apply to sections 2 and 3 of this chapter. (Formerly: Acts 1949, c.137, s.1). As amended by P.L.143-1985, SEC.28.

13-1-4-2 Water pollution agency for state; authority

Effective July 1, 1986

Sec. 2. The department is designated as water pollution agency for this state for all

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13-7-10-1

ar fuel reprocessing plant shall file with the technical secretary of each board an environmental feasibility report, on a form prescribed by the boards, concurrently with the filing of the preliminary safety analysis required to be filed with the United States Atomic Energy Commission. (Formerly: Acts 1972, P.L.100, SEC.1). As amended by P.L.143-1985, SEC.144.

13-7-9-3 Public hearing

Effective July 1, 1986

Sec. 3. (a) The commissioner, on behalf of each board, may conduct a public hearing at a time and place to be determined by the department on the environmental effects of the proposed operation.

(b) Any person affected by the proposed construction shall have the right to participate in the hearing to such an extent and in such manner as the board may prescribe. (Formerly: Acts 1972, P.L.100, SEC.1). As amended by P.L.143-1985, SEC.145.

13-7-9-4 Rules and standards

Effective July 1, 1986

Sec. 4. (a) Each board shall adopt rules and standards under section 1 of this chapter to protect the citizens of Indiana from the hazards of radiation.

(b) Any permit required under this chapter according to rules adopted by the boards shall specify the maximum allowable level of radioactive discharge.

(c) Any permit issued shall include a requirement for appropriate procedures of monitoring any discharge and require a report thereof to the department. (Formerly: Acts 1972, P.L. 100, SEC.1). As amended by P.L.143-1985, SEC.146.

Chapter 10. Permits.

- 13-7-10-1 Rules for issuance; scope
- 13-7-10-2¹ Issuance; period; hearing; notice; renewal
- 13-7-10-2² Issuance; period; hearing; renewal
- 13-7-10-2.5 Comments concerning question of issuance or denial of permit

13-7-10-5 Revocation or modification of permits; causes; hearing; appeal

¹ P.L.171-1983, SEC.4

² P.L.143-1985, SEC.148

13-7-10-1 Rules for issuance; scope

Effective July 1, 1986

Sec. 1. (a) Each board shall establish, by rules adopted under IC 4-22-2, requirements and procedures for the issuance of permits.

(b) In rules for the issuance of permits, each board may:

- (1) prescribe standards for the discharge, emission, or disposal of contaminants and the operation of any facility, equipment, or device; and
- (2) impose such conditions as deemed necessary to accomplish the purposes of this article.

(c) The air pollution control board shall establish requirements for the issuance of permits to control air pollution, noise, and atomic radiation, including:

- (1) permits to control or limit the emission of any contaminants into the atmosphere;
- (2) permits for the construction, installation, or modification of facilities, equipment, or devices to control or limit any discharge, emission, or disposal of contaminants into the air; and
- (3) permits for the operation of facilities, equipment, or devices to control or limit the discharge, emission, or disposal of any contaminants into the environment.

(d) The water pollution control board shall establish requirements for the issuance of permits to control water pollution and atomic radiation, including:

- (1) permits to control or limit the discharge of any contaminants into state waters or into a publicly owned treatment works;
- (2) permits for the construction, installation, or modification of facilities, equipment, or devices to control or limit any discharge, emission, or disposal of contaminants into the waters of Indiana or into a publicly owned treatment works; and

(3) permits for the operation of facilities, equipment, or devices to control or limit the discharge, emission, or disposal of any contaminants into the waters of Indiana or into a publicly owned treatment works.

(e) The solid waste management board shall establish requirements for the issuance of permits to control solid waste, hazardous waste, and atomic radiation, including:

- (1) permits to control or limit the disposal of any contaminants onto or into the land;
- (2) permits for the construction, installation, or modification of facilities, equipment, or devices:

(A) to control or limit any discharge, emission, or disposal of contaminants into the land; or

(B) for the storage, treatment, processing, or disposal of solid waste or hazardous waste; and

- (3) permits for the operation of facilities, equipment, or devices:

(A) to control or limit the discharge, emission, or disposal of any contaminants into the land; or

(B) for the storage, transportation, treatment, processing, or disposal of solid waste or hazardous waste.

(Formerly: Acts 1972, P.L.100, SEC.1; Acts 1973, P.L.126, SEC.7). As amended by Acts 1980, P.L.103, SEC.10; P.L.143-1985, SEC.147.

13-7-10-2 Issuance; period; hearing; notice; renewal

Text as amended by P.L.171-1983, SEC.4, effective until July 1, 1986

Sec. 2. (a) Any permit issued under this chapter may be issued for any period determined by the board or an agency to be appropriate but not to exceed five (5) years. The board or appropriate agency may delegate authority to issue or deny permits to its technical secretary or other duly designated staff member.

(b) A public hearing shall be held on the question of the issuance of an original or renewal permit for a hazardous waste disposal facility under IC 13-7-8.5, or on the question of

the issuance of an original permit for a solid waste disposal facility upon:

- (1) the request of the applicant;
- (2) the filing of a petition requesting a public hearing that is signed by one hundred (100) adult individuals who:

(A) reside in the county where the proposed or existing facility is or is to be located; or

(B) own real property within one (1) mile of the site of the proposed or existing facility; or

- (3) the motion of the board or an agency.

The public hearing authorized by this subsection does not constitute an administrative adjudication under IC 4-22-1. The board, after receiving a staff recommendation that an original or renewal permit be issued to an applicant for a hazardous waste disposal facility permit, shall at its next regular meeting appoint a hearing officer with instructions to set a date for the public hearing requested under this subsection. If the staff recommends to the board that the permit or renewal permit be denied, there is no requirement for the public hearing under this subsection.

(c) If the petition under subsection (b)(2) requests that the public hearing be conducted at a location within a county affected by a proposed permit, the board shall conduct that public hearing at that location.

(d) Whenever a permit is required by any rule of the board or an agency pursuant to section 1 of this chapter for the construction, installation, operation, or modification of any facility, equipment, or device, said permit shall be issued after the board or agency staff has approved the plans and specifications and determined that such facility, equipment, or device meets the requirement of the board or agency.

(e) Any issued permit or, if a permit is denied, notice of a permit denial shall be mailed in the United States postal system, postage prepaid, to the applicant at the address stated in his application. A permit shall be considered issued as of the date of mailing.

(f) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal or a new permit in accordance with rules of the board or appropriate agency, the existing permit does not expire until a final determination on the application has been made by the board or agency. An application for renewal of a hazardous waste disposal facility operating permit under IC 13-7-8.5 must be submitted at least one hundred eighty (180) days before the expiration of the facility's current operating permit in order to be considered timely under this subsection. *(Formerly: Acts 1972, P.L.100, SEC.1). As amended by Acts 1980, P.L.103, SEC.11; P.L.171-1983, SEC.4.*

For text as amended by P.L.143-1985, SEC.148, effective July 1, 1986, see section 13-7-10-2, post

13-7-10-2 Issuance; period; hearing; renewal

Text as amended by P.L.143-1985, SEC.148, effective July 1, 1986

Sec. 2. (a) Any permit issued under this chapter may be issued for any period determined by the department to be appropriate but not to exceed five (5) years. The commissioner may delegate authority to issue or deny permits to a duly designated staff member.

(b) A public hearing shall be held on the question of the issuance of an original or renewal permit for a hazardous waste disposal facility under IC 13-7-8.5, or on the question of the issuance of an original permit for a solid waste disposal facility upon:

- (1) the request of the applicant;
- (2) the filing of a petition requesting a public hearing that is signed by one hundred (100) adult individuals who:

(A) reside in the county where the proposed or existing facility is or is to be located; or

(B) own real property within one (1) mile of the site of the proposed or existing facility; or

- (3) the motion of the commissioner.

The public hearing authorized by this subsection does not constitute an administrative adjudication under IC 4-22-1.

(c) If the petition under subsection (b)(2) requests that the public hearing be conducted at a location within a county affected by a proposed permit, the department shall conduct that public hearing at that location.

(d) Whenever a permit is required by any rule of one (1) of the boards pursuant to section 1 of this chapter for the construction, installation, operation, or modification of any facility, equipment, or device, that permit may be issued only after the department staff has approved the plans and specifications and determined that the facility, equipment, or device meets the requirement of the rule.

(e) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal or a new permit in accordance with rules of one (1) of the boards, the existing permit does not expire until a final determination on the application has been made by the department. However, the commissioner may seek injunctive relief in regard to the continuing activity of the permit applicant while the permit application is pending if the continuing activity of permit applicant constitutes a threat to the public health, safety, or welfare. An application for renewal of a hazardous waste disposal facility operating permit under IC 13-7-8.5 must be submitted at least one hundred eighty (180) days before the expiration of the facility's current operating permit in order to be considered timely under this subsection. *(Formerly: Acts 1972, P.L.100, SEC.1). As amended by Acts 1980, P.L.103, SEC.11; P.L. 171-1983, SEC.4; P.L.143-1985, SEC.148.*

For text as amended by P.L.171-1983, SEC.4, effective until July 1, 1986, see section 13-7-10-2, ante

13-7-10-2.5 Comments concerning question of issuance or denial of permit

Effective July 1, 1986

Sec. 2.5. (a) In response to an application for an original permit or a renewal permit, the commissioner:

- (1) shall, if required by section 2(b) of this chapter or other law; or
- (2) may, if not required by law;

publish a notice requesting comments concerning the question of issuance or denial of the permit. A comment period of at least thirty (30) days must follow publication of a notice under this section. During the comment period, interested persons may submit written comments to the commissioner concerning the issuance or denial of the permit, and may request a public hearing concerning the issuance or denial of the permit. The commissioner, in response to one (1) or more written requests, may hold a public hearing in the geographical area affected by the proposed permit on the question whether to issue or deny the permit.

(b) After the comment period or, if a public hearing is held, after the public hearing, the commissioner shall issue the permit or deny the permit application. Unless the commissioner, in writing, states otherwise, the commissioner's action under this section is effective immediately. Notice of the commissioner's action shall be served upon:

- (1) the permit applicant;
- (2) each person who submitted written comments under subsection (a); and
- (3) each person who requests notice of the permit determination.

If the commissioner's action is likely to have a significant impact upon persons who are not readily identifiable, the commissioner may publish notice of the action on the permit application in a newspaper of general circulation in the county affected by the proposed permit.

(c) Within fifteen (15) days after receiving the notice provided by the commissioner under subsection (b):

- (1) the permit applicant; or

- (2) any other person aggrieved by the commissioner's action;

may appeal the commissioner's action to the appropriate board and request that the board hold an adjudicatory hearing concerning the action under IC 4-22-1.

(d) a written request for an adjudicatory hearing under subsection (c) must:

- (1) state the name and address of the person making the request;
- (2) identify the interest of the person making the request;
- (3) identify any persons represented by the person making the request;
- (4) state with particularity the reasons for the request;
- (5) state with particularity the issues proposed for consideration at the hearing; and
- (6) identify the permit terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing permits of the type granted or denied by the commissioner's action.

(e) Within thirty (30) days after receiving a request for an adjudicatory hearing, the board, if it determines that the request was properly submitted and that it establishes a jurisdictional basis for a hearing, shall assign the matter for a hearing. Upon assigning the matter for a hearing, the board may stay the force and effect of any contested permit provision and any permit term or condition the board considers inseverable from a contested permit provision. After a final hearing under this subsection, a final order of the board on a permit application is subject to review under IC 4-22-1. *As added by P.L.143-1985, SEC.149.*

13-7-10-4 Board or agency hearing; review

Sec. 4. *(History: Repealed, effective 7-1-86, by P.L.143-1985, SEC.207).*

13-7-10-5 Revocation or modification of permits; causes; hearing; appeal

Effective July 1, 1986

Sec. 5. (a) Any permit granted by the department under this article may be revoked or

modified by the commissioner, or by a designated staff member, for any of the following causes:

- (1) Violation of any condition of the permit.
- (2) Failure to disclose all of the relevant facts or any misrepresentation made in obtaining the permit.
- (3) Changes in circumstances relating to the permit that require either a temporary or permanent reduction in the discharge of contaminants.
- (4) Any other change, situation, or activity relating to the use of a permit which, in the judgment of the department, is not consistent with the purposes of this article or IC 13-1 or rules adopted by one (1) of the boards.

(b) Any person aggrieved by the revocation or modification of a permit may appeal the revocation or modification under IC 4-22-1. Pending the decision resulting from the hearing under IC 4-22-1 concerning the permit revocation or modification, the permit shall remain in force. However, the commissioner may seek injunctive relief in regard to the activity described in the permit while the decision resulting from the hearing is pending. *(Formerly: Acts 1972, P.L.100, SEC.1). As amended by Acts 1980, P.L.103, SEC.13; P.L.143-1985, SEC.150.*

Chapter 11. Enforcement.

- 13-7-11-1 Investigations
- 13-7-11-2 Procedures
- 13-7-11-3 Hearings
- 13-7-11-4 Board as a party
- 13-7-11-5 Final orders

13-7-11-1 Investigations

Effective July 1, 1986

Sec. 1. The commissioner, or a designated member of the staff of the department, on receipt of information of any alleged violation of this article or of any rule or standard adopted under this article, may initiate an investigation. *(Formerly: Acts 1972, P.L.100, SEC.1; Acts 1973, P.L.126, SEC.9). As amended by P.L.143-1985, SEC.151.*

13-7-11-2 Procedures

Effective July 1, 1986

Sec. 2. (a) If an investigation discloses a possible violation, the commissioner shall issue written notice, by registered or certified mail with return receipt requested, addressed to the alleged violator at the last known place of residence or place of business, together with a complaint specifying the provision of this article or the rule being violated. The complaint must include a statement of the manner in which, and the extent to which, the alleged violation exists. The alleged violator may be required by the notice to answer the charges by written response before the hearing date or at a hearing before the department on a date not less than twenty (20) days after the receipt of the notice, except as may be otherwise provided herein. A copy of the notice and complaint may also be sent to any local governmental unit which may be an interested party to the action. The department may also provide that notice of the hearing be published in a newspaper or newspapers. In the case of alleged violations occurring outside the state contributing to environmental damage in the state, the extra-territorial service-of-process provisions of the law and the Indiana rules of trial procedure shall apply.

(b) Any person who has filed a complaint under IC 13-6-1 may, if:

- (1) the department has refused to proceed; or
- (2) one hundred eighty (180) days have elapsed from the filing of the complaint without a final determination;

proceed against the alleged violator, and in such event the department need not be joined as a party. However, the department may intervene in any such proceeding.

(c) In hearings under this chapter, the burden shall be on the complainant to show the alleged violation. *(Formerly: Acts 1972, P.L. 100, SEC.1; Acts 1973, P.L.126, SEC.10). As amended by P.L.143-1985, SEC.152.*

Sec. 8. The following shall be excluded from the requirements of sewer connection bans:

- (1) Single-family dwellings erected on vacant lots served by an existing sanitary sewer.
- (2) Projects that possess a valid construction permit issued under 327 IAC 3-2 prior to the imposition of a sewer connection ban.

(Water Pollution Control Board; 327 IAC 4-1-8; filed Sep 24, 1987, 3:00 pm)

327 IAC 4-1-9 Appeals

Authority: IC 13-1-3-7; IC 13-7-7-5

Affected: IC 4-21.5; IC 4-22-1; IC 13-1-3; IC 13-7

Sec. 9. A POTW aggrieved by the imposition of a ban, denial of a sewer ban waiver, or the denial of a request to terminate the ban may appeal to the board for a hearing. All hearings under this section shall be held in accordance with IC 4-21.5 or IC 4-22-1. (Water Pollution Control Board; 327 IAC 4-1-9; filed Sep 24, 1987, 3:00 pm)

327 IAC 4-1-10 Enforcement

Authority: IC 13-1-3-7; IC 13-7-7-5

Affected: IC 13-1-3; IC 13-7-11; IC 13-7-13

Sec. 10. This article (327 IAC 4) may be enforced through administrative or judicial proceedings, pursuant to IC 13-7-11, and the penalty provisions of IC 13-7-13. (Water Pollution Control Board; 327 IAC 4-1-10; filed Sep 24, 1987, 3:00 pm)

327 IAC 4-1-11 Access to information

Authority: IC 13-7-7-5; IC 13-7-16-7

Affected: IC 13-1-3; IC 13-7

Sec. 11. (a) Whenever necessary to carry out the provisions of this article (327 IAC 4), any person who is or may be reasonably expected to be subject to such regulatory provisions shall:

- (1) establish and maintain records;
- (2) make reports;
- (3) install, use, and maintain monitoring equipment or methods;
- (4) sample effluents, or other material; and
- (5) provide other information;

at the locations, at the times, and in the manner, the commissioner may reasonably prescribe.

(b) The commissioner, or his authorized representative, upon presentation of proper credentials:

- (1) shall have a right of entry to, upon, or through any premises, public or private, in which records, reports, monitoring equipment or methods, samples, or other information required to be maintained or provided under subsection (a) are located; and
- (2) may at reasonable times have access to, and copy any records, inspect any equipment or method,

or sample any effluent, or other material required under subsection (a).

(Water Pollution Control Board; 327 IAC 4-1-11; filed Sep 24, 1987, 3:00 pm)

ARTICLE 5. INDUSTRIAL WASTEWATER PRETREATMENT PROGRAMS (NPDES)

Rule 1. NPDES and Pretreatment Programs; General Provisions

327 IAC 5-1-1 Purpose

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 1. This article (327 IAC 5), prescribes policies, procedures, and technical criteria for the following programs of the water pollution control board: the issuance of discharge permits under the national pollutant discharge elimination system (NPDES), and the implementation of a program for the pretreatment of industrial wastewaters to be discharged into municipal sewage treatment facilities. The provisions of this rule (327 IAC 5-1) are generally applicable to all other rules of this article (327 IAC 5). (Water Pollution Control Board; 327 IAC 5-1-1; filed Sep 24, 1987, 3:00 pm)

327 IAC 5-1-2 Definitions

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 2. In addition to the definitions contained in IC 13-7-1 and IC 13-1-3-1.5, and in 327 IAC 1, the following definitions apply:

"Administrator" means the administrator of the United States Environmental Protection Agency.

"Applicable effluent standards and limitations" means all federal, state, and interstate standards and limitations to which a "discharge" is subjected under the CWA and Indiana law.

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, and other management practices to prevent or reduce the pollution of "waters of the state." BMPs can be employed, for example, to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage resulting from manufacturing, commercial, mining, or silvicultural activities.

"Combined sewer" means a sewer designed and employed to receive both water-carried and/or liquid wastes and storm and/or surface water.

"Conventional pollutants" includes: biochemical oxygen demanding pollutants, suspended solids, fecal coliform, pH, and oil and grease.

"Discharge" or "direct discharge," when used without qualification, means a "discharge of a pollutant."

"Discharge of a pollutant" means any addition of any "pollutant," or combination of pollutants, into any waters of the state of Indiana from a "point source" in Indiana. The term includes, without limitation, additions of pollutants into waters of the state from: surface runoff which is collected or channeled by man; and discharges through pipes, sewers, or other conveyances which do not lead to treatment works.

"Draft permit" means a document prepared prior to the public comment period by the commissioner indicating the commissioner's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit."

"Effluent limitation" means any restriction established by the "commissioner" on quantities, discharge rates, and concentrations of "pollutants" that are "discharged" or will be discharged from "point sources" into waters of the state of Indiana.

"Effluent limitations guideline" means a regulation adopted by the administrator of the EPA under section 304(b) of the CWA for use in establishing effluent limitations for specific point sources within a particular industrial class or category.

"Effluent standard or prohibition" means a regulation adopted by the administrator of the EPA, pursuant to section 307(a) of the CWA, which restricts or prohibits the discharge of a toxic pollutant, based on the toxic qualities of that pollutant, and does not mean an "effluent limitations guideline."

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

"General permit area" ("GPA") means the designated geographic area within which a particular general permit is applicable.

"General permit" means an authorization to discharge, which is applicable to all owners and operators of point sources of a particular category located within a designated GPA, other than owners and operators of such sources to whom individual NPDES permits have been issued.

"Hazardous substance" means, for purposes of NPDES, any substance designated under 40 CFR Part 116 pursuant to section 311 of the CWA.

"Hazardous waste" means a waste having the characteristics described in IC 13-7-1-12 and specifically a waste which is listed pursuant to IC 13-7-8.5-3(b).

"Indirect discharger" means a nondomestic discharger introducing "pollutants" into a "POTW."

"Major discharger" means any point source discharger which is designated as such annually by agreement between the commissioner and EPA. Classification of a discharger as "major" generally involves consideration of factors relating to the significance of the discharge's impact on the environment, such as nature and quantity of pollutants discharge, character and assimilative capacity of the receiving waters, presence of toxic pollutants in the discharge, and compliance history of the discharger.

"Minor discharger" means all dischargers which are not designated as major dischargers.

"National pollutant discharge elimination system," also referred to as "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, denying, monitoring, and enforcing permits for the discharge of pollutants from point sources and imposing and enforcing pretreatment requirements by the Environmental Protection Agency or an authorized state pursuant to sections 307, 318, 402, and 405 of the CWA.

"New discharge" means any building, structure, facility, or installation:

- (1) from which there is or may be a "discharge of pollutants";
- (2) that did not commence the "discharge of pollutants" at a particular site prior to August 13, 1979;
- (3) which is not a "new source"; and
- (4) which has never received a finally effective NPDES permit for discharges at that site.

This definition of "new discharger" includes an "indirect discharger" which commences discharging into "waters of the state" after August 13, 1979. It also includes any existing mobile point source that begins discharging at a site for which it does not have a permit.

"New source" means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commences:

- (1) after promulgation of standards of performance under section 306 of CWA which are applicable to such source; or
- (2) after publication of proposed standards of performance in accordance with section 306 of CWA which are applicable to such source, if the standards subsequently are promulgated in accordance with section 306.

"Outfall" means the point of discharge from a point source.

consistent with the National Pollutant Discharge Elimination System (NPDES) requirements set forth in sections 318, 402, and 406 of the CWA and federal regulations adopted pursuant thereto. (*Water Pollution Control Board; 327 IAC 5-2-1; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-2-2 Requirement to have a permit

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 2. Any discharge of pollutants into waters of the state as a point source discharge, except for exclusions made in 327 IAC 5-2-4, is prohibited unless in conformity with a valid NPDES permit obtained prior to the discharge. (*Water Pollution Control Board; 327 IAC 5-2-2; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-2-3 Application for a permit

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 3. (a) Any person required to have an NPDES permit, except for persons covered by general permits under 327 IAC 5-4-8, shall submit a complete application to the commissioner in accordance with this section and 327 IAC 5-3.

(b) An application for a permit shall be submitted to the commissioner by the time specified in 327 IAC 5-3-2 or, in the case of an application for a statutory modification of or variance from effluent limitations, by the time specified in 327 IAC 5-3-4.

(c) The owner of the facility or operation from which a discharge of pollutants occurs is responsible for applying for and obtaining a permit, except where the facility or operation is operated by a person other than an employee of the owner in which case it is the operator's duty to apply for and obtain a permit.

(d) All applicants for NPDES permits shall submit to the commissioner a completed application Form 1-General, as described in 45 FR 33545-56 (May 19, 1980), including any revisions made to this form by EPA through December 31, 1986. The commissioner may substitute a substantially equivalent form for submittal in place of the Form 1-General.

(e) Existing manufacturing, commercial, mining, and silvicultural dischargers applying for NPDES permits shall provide the commissioner with the additional information specified in application Form 2C NPDES as described in 45 FR 33559-79 (May 19, 1980), including any revisions made to this form by EPA through December 31, 1986, or substantially equivalent forms supplied by the commissioner.

(f) New and existing concentrated animal feeding operations and concentrated aquatic animal production facilities shall provide the commissioner with the additional information specified in application Form 2B-NPDES as described in 45 FR 33557-8 (May 19, 1980), including any revisions made to this form by EPA through December 31, 1986, or substantially equivalent forms supplied by the commissioner.

(g) New and existing POTWs shall provide the additional information specified on standard form A-Municipal (EPA Form 7550-22) or substantially equivalent forms supplied by the commissioner. If EPA promulgates form 2A — NPDES, the commissioner may specify its use for applications by new and existing POTWs.

(h)(1) New sources and new dischargers engaged in manufacturing, commercial, mining, and silvicultural activities shall provide the additional information specified in subsection (e) using application form 2C NPDES or equivalent forms supplied by the commissioner, in accordance with the following supplemental instructions:

(A) Where form 2C-NPDES specifies the submission of analytical data for particular pollutants from effluent samples, the permittee may substitute his best estimate of the concentrations and masses of said pollutants expected in the effluent if actual analytical data is not available. The estimates may be based on chemical analyses of pilot plant effluent, engineering analyses of the production and wastewater treatment processes, effluent data from similar facilities, or other reasonable bases:

(B) Within one (1) year after issuance of the permit for the new facility, the permittee shall sample his effluent as required by form 2C-NPDES and report the analytical results to the commissioner. The actual effluent data may constitute cause for modification of the permit pursuant to 327 IAC 5-2-16(d)(2).

(2) If EPA promulgates form 2D-NPDES, the commissioner may specify its use for applications by new sources and new dischargers in the alternative to compliance with subdivision (1).

(i) In the case of an application for permit reissuance by a manufacturing, commercial, mining or silvicultural discharger who has previously submitted an application in accordance with subsections (e) or (h), the permittee may request a waiver of the submission of analytical data for toxic pollutants otherwise required as part of the application if:

(1) analyses reported in the previous application(s) of at least two (2) samples of the effluent did not detect the presence of the toxic pollutants; and

Permits required on a Case-by-case basis

Tent. permit decisions & drafts

327 IAC 5-3-5 Permits required on a case-by-case basis

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1
Affected: IC 13-1-3; IC 13-7

Sec. 5. (a) Various sections of 327 IAC 5-4 allow the commissioner to determine, on a case-by-case basis, that certain facilities, e.g., concentrated animal feeding operations and particular facilities covered by general permits may be required to obtain individual NPDES permits because of their significant contribution to water pollution or other reasons.

(b) Whenever the commissioner decides that an individual permit should be required under this section, he shall inform the discharger in writing of that decision and the reasons underlying it and shall include an application form with such notice. The discharger must apply for a permit in accordance with 327 IAC 5-3-2 and 327 IAC 5-2-3 within ninety (90) days of a receipt of such notice. (*Water Pollution Control Board; 327 IAC 5-3-5; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-6 Tentative permit decisions and draft permits

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1
Affected: IC 13-1-3; IC 13-7

Sec. 6. (a) If a permit has been properly requested under 327 IAC 5-3-2, the commissioner, after analyzing the data and other information furnished in the permit application and any other relevant information, shall tentatively decide whether to issue or deny the permit.

(b) If the commissioner tentatively decides to issue a permit, a draft permit shall be prepared containing:

- (1) all conditions, limitations, or requirements specified in 327 IAC 5-2-6, 327 IAC 5-2-8, and 327 IAC 5-2-9;
- (2) all effluent limitations, standards, prohibitions, and conditions required by 327 IAC 5-2-10, including all applicable variances or other statutory modifications which have been requested and appear justified under these rules (327 IAC 5-3);
- (3) all compliance schedules required by 327 IAC 5-2-12; and
- (4) all monitoring, recording, and reporting requirements specified by 327 IAC 5-2-13, 327 IAC 5-2-14, and 327 IAC 5-2-15.

(c) A decision by the commissioner to deny a permit application shall be made through the same procedures under this rule (327 IAC 5-3) as any other permit decision. A notice of intent to deny a permit shall be made available for public comment under 327 IAC 5-3-9.

(d)(1) If the commissioner determines, either as a result of a request under 327 IAC 5-3-3 or on the commissioner's own initiative, that the modification or the revocation and reissuance of a permit is warranted under 327 IAC 5-2-16, the commissioner shall formulate a draft permit incorporating the proposed changes. In the case of a permit modification, the draft permit need not include the entire permit but may be restricted to the permit provisions which are proposed to be modified. If needed for the preparation of a draft permit under this subsection, the commissioner may request additional information, including, in appropriate cases, a complete new permit application.

(2) When a draft permit is formulated for a proposed modification, only those terms in the existing permit which are affected by the proposed modification will be reopened. However, such terms of the existing permit remain in force until a modification is issued and becomes finally effective under this article (327 IAC 5). All other aspects of the permit will remain in force until the expiration of the permit. If the permit is proposed to be revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During any proceeding for revocation and reissuance of a permit, the permittee shall comply with all conditions of the existing permit until the new permit is reissued.

(e)(1) If the commissioner decides, either as a result of a request or on the commissioner's own initiative, that a permit shall be terminated pursuant to 327 IAC 5-2-16, the commissioner shall prepare a notice of intent to terminate which shall be made available for public comment. The decision shall be finalized through the procedures applicable under this rule (327 IAC 5-3) to any other permit decision.

(2) Pending issuance of a final decision to terminate a permit, the terms and conditions of the permit shall remain in full force and effect.

(f) General permits to be issued under 327 IAC 5-4-8 shall be proposed in draft form, shall contain the designation of the general permit area and, except for general permits for separate storm sewers, shall be sent to the EPA for concurrence or objection during the public comment period. No final permit shall be issued if the regional administrator or the EPA deputy assistant administrator for water enforcement objects to the general permit within ninety (90) days from the date of publication of the public notice for the draft general permit. (*Water Pollution Control Board; 327 IAC 5-3-6; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-7 Statement of basis

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1
Affected: IC 13-1-3; IC 13-7

Final Rules

Fact sheet

Sec. 7. A statement of basis shall be prepared for every draft permit for which a fact sheet is not required. The statement of basis shall briefly describe the derivation of the terms and conditions of the permit and the reasons for them. For instance, if effluent limitations in a permit are based upon the application of water quality standards, the statement of basis shall identify the pertinent standards and the manner in which the effluent limitations in the permit were derived from the standards. (*Water Pollution Control Board; 327 IAC 5-3-7; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-8 Fact sheet

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 8. (a) A fact sheet shall be prepared for every draft permit for a major discharger, any draft permit which incorporates a statutory variance or modification or requires explanation under subsection (b)(5), general permits, and every draft permit which the commissioner finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the major facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The commissioner shall send this fact sheet to the applicant, to the district engineer of the corps of engineers, to the regional director of the U.S. fish and wildlife service, to other interested state and federal agencies, to any other person on request and to all persons on a mailing list for receipt of fact sheets (see 327 IAC 5-3-12(g)). Any of these persons may waive their right to receive a fact sheet for any classes and categories of permits.

(b) The fact sheet shall include:

- (1) A brief description of the type of facility or activity which is the subject of the draft permit and, where appropriate, a sketch or detailed description of the discharge described in the application.
- (2) A description of the type and quantity of pollutants which are, or are proposed to be, discharged.
- (3) A brief explanation of the express statutory or regulatory provisions on which permit requirements are based.
- (4) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable guideline or development documents or standard provisions as required under 327 IAC 5-2-10 and reasons why they are applicable or an explanation of how alternate effluent limitations were developed.
- (5) When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

(A) limitations to control toxic pollutants under 327 IAC 5-2-10;

(B) limitations on internal wastestreams; or

(C) limitations on indicator pollutants under 327 IAC 5-2-10(f) and 327 IAC 5-5-2(f).

(6) Reasons why requested variances or modifications from otherwise required effluent limitations do or do not appear justified.

(7) Name and telephone number of a departmental contact person who can provide additional information.

(8) Any information, not otherwise specified herein, required by 327 IAC 5-3-12.

(*Water Pollution Control Board; 327 IAC 5-3-8; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-9 Public comments and public hearings

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 4-21.5; IC 4-22-1; IC 13-1-3; IC 13-7

Sec. 9. (a) A comment period of at least thirty (30) days following the date of public notice of the formulation of a draft permit shall be provided. During this period any interested persons may submit written comments on the draft permit and may request a public hearing in accordance with subsection (b). All comments, including those submitted in a public hearing, shall be considered by the commissioner in preparing the final permit and shall be responded to as provided in 327 IAC 5-3-15.

(b)(1) A public hearing on a draft permit may be held by the commissioner in appropriate cases, either on the commissioner's own initiative or in response to a request or requests for public hearing submitted during the public comment period. Such a hearing shall be held where the commissioner finds there is a significant public interest in the draft permit. Instances of doubt will be resolved in favor of holding a hearing. Public notice of a public hearing shall be given as specified in 327 IAC 5-3-12.

(2) A request for a public hearing shall be in writing and shall state the nature of the issues to be raised and the reasons why a hearing is warranted.

(3) Any hearing conducted pursuant to this section shall be held in the geographical area of the proposed discharge, or other appropriate area where significant public interest exists in the discretion of the commissioner, and may, when appropriate, consider two or more related draft permits.

(4) Any person appearing at such a hearing may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. A hearing con-

ducted under this section shall not constitute an "administrative adjudication" for purposes of IC 4-22-1 or IC 4-21.5.

(c) All persons, including the applicant, who believe any of the terms and conditions of a draft permit or a tentative decision to deny or terminate a permit is not appropriate for any reason, must raise all reasonably ascertainable issues and submit all arguments and a summary of the factual grounds supporting their position by the close of the public comment period (including any public hearing period).

(d) Since a general permit is in the nature of rule, public notice and public hearing of the proposed issuance of a general permit must be given in accordance with statutorily prescribed procedures for administrative agency rulemaking as well as the provisions of this section and 327 IAC 5-3-12. (*Water Pollution Control Board; 327 IAC 5-3-9; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-10 Terms requested by the corps of engineers and other governmental agencies

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1
Affected: IC 13-1-3; IC 13-7

Sec. 10. (a) If the district engineer of the corps of engineers advises the commissioner in writing during the public comment period that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a permit, the permit shall be denied and the applicant so notified. If the district engineer advises the commissioner that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the commissioner shall include the specified conditions in the permit. Review or appeal of a denial of a permit or of conditions specified by the district engineer shall be made through the applicable procedures of the corps of engineers, and may not be made through the procedures provided in this rule (327 IAC 5-3).

(b) If during the comment period the U.S. fish and wildlife service or any state or other federal agency with jurisdiction over fish, wildlife, or public health advises the commissioner in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the commissioner may include the specified conditions in the permit to the extent the commissioner determines they are necessary to carry out the provisions of the CWA and applicable state law.

(c) In appropriate cases the commissioner may consult with one (1) or more of the agencies referred to in this section before issuing a draft permit and may

reflect their views in the statement of basis, the fact sheet, or the draft permit. (*Water Pollution Control Board; 327 IAC 5-3-10; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-11 Reopening of the comment period

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1
Affected: IC 13-1-3; IC 13-7

Sec. 11. If any information or arguments submitted during the public comment period appears to raise substantial new questions concerning a permit, the commissioner may conclude that one or more of the following actions is necessary for an informed decision:

- (1) formulation of a new draft permit, appropriately modified;
- (2) preparation of a fact sheet or revised fact sheet and reopening the comment period under 327 IAC 5-3-9; or
- (3) Reopening or extending the comment period to give interested persons an opportunity to comment on the information or arguments submitted. In each case the notice required by 327 IAC 5-3-12 shall be given.

(*Water Pollution Control Board; 327 IAC 5-3-11; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-12 Public notice of comment period and public hearings concerning permit determinations

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1
Affected: IC 13-1-3; IC 13-7

Sec. 12. (a) Notice of every proposed determination on a permit issuance or denial and of a public hearing concerning such a proposed determination shall be circulated in a manner designed to inform interested persons. Notice of a proposed permit determination shall allow at least thirty (30) days for public comment, as specified in 327 IAC 5-3-9, and notice of a public hearing shall be given at least thirty (30) days before the hearing.

(b) Public notices required by subsection (a) shall be given by the commissioner:

(1) By mailing a copy by certified mail, return receipt requested, to the applicant, to EPA, and to the U.S. army corps of engineers, and by regular first class mail to federal and state agencies with jurisdiction over fish, shellfish and wildlife resources, to other appropriate governmental authorities including any affected state, to any person on request and to all persons on a mailing list for receipt of such notices.

(2) By publication of a notice in a daily or weekly newspaper in general circulation throughout the area affected by the discharge or, at the commissioner's discretion, by any other method reasonably

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calculated to give actual notice of the proposed permit action to persons potentially affected by it, including the use of press releases or by posting a copy of the information required under subsection (c) at the principal office of the municipality or political subdivision affected by the facility or discharge and at the United States post office serving those premises.

Any person otherwise entitled to receive notice under subdivision (1) may waive the right to receive notice for any classes and categories of permits.

(c) All public notices issued under this section shall contain the following information:

- (1) name and address of this department;
- (2) except in the case of general permits, name and address of the applicant and the discharger (if different from the applicant) and a general description of the location of each existing or proposed discharge point, including the receiving water;
- (3) a brief description of the applicant's activities or operations that result in the discharge described in the application, and a statement whether the application pertains to a new or existing discharge;
- (4) a brief description of the tentative permit determination, e.g., to issue, deny, modify, revoke and reissue, or terminate the permit;
- (5) if the applicant has properly applied under section 316(a) of the CWA for a thermal variance, a statement to that effect. The notice shall state that all data submitted by the applicant are available as part of the administrative record for public inspection during office hours. The notice shall also include:

(A) A brief description, including a quantitative statement, of the thermal effluent limitations proposed under sections 301 or 306 of the CWA.

(B) A statement that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under section 316(a) of the CWA and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the application.

(C) If the applicant has filed an early screening application for a CWA section 316(a) variance under 327 IAC 5-7-3, a statement that the applicant has submitted such a plan.

- (6) a brief description of the comment procedures provided under 327 IAC 5-3-9 and a statement of the right and procedures to request a public hearing; and
- (7) name of a contact person, and an address and telephone number where interested persons may obtain further information, including copies of the draft permit and the statement of basis or fact sheet.

(d)(1) Notice of the formulation of a draft general permit and the issuance of a final general permit under 327 IAC 5-4-8 shall:

(A) Meet the requirements of subsection (c) and shall also include:

- (i) a brief description of the types of activities or operations to be covered by the general permit;
- (ii) a map or description of the general permit area; and
- (iii) the basis for choosing the general permit area; and

(B) Be published in the Indiana Register and in one (1) or more daily or weekly newspapers in general circulation throughout the general permit area.

(2) In addition to the publication required by clause (B), the commissioner shall use all other reasonable means to notify affected dischargers of the draft and final general permit.

(e) In addition to the information required under subsection (c), public notice of a public hearing held under 327 IAC 5-3-9 shall contain the following information:

- (1) reference to the date and identification number of the public notice of the draft permit;
- (2) date, time and place of the hearing; and
- (3) a brief description of the nature and purpose of the hearing including the applicable rules and procedures.

(f) The commissioner, at the commissioner's discretion, may include in any notice of a tentative permit determination under subsection (c) a notice of hearing in accordance with subsection (e), whether or not any request for such hearing shall have been submitted to him.

(g) The mailing lists referred to in paragraph (b)(1) and in 327 IAC 5-3-8(a) consists of those persons who request to be on the list to receive copies of all public notices or fact sheets, respectively, or both. Such a request shall be made in writing to the department and shall be renewed annually in the month of January. Failure to renew the request will be cause for the commissioner to remove a name from the appropriate mailing list. Availability of the mailing lists will be publicized periodically through press releases and notices in the Indiana Register or other appropriate publications. The commissioner may establish regional mailing lists in addition to or in place of a state-wide list. (*Water Pollution Control Board; 327 IAC 5-3-12; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-13 Special procedures for decisions on thermal issues

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 13. (a) Permit applicants who wish a final decision, prior to issuance of a final permit, on whether alternative thermal effluent limitations would be justified under section 316(a) of the CWA and whether cooling water intake structures employ the best available technology under section 316(b) of the CWA should request such an early decision and furnish supporting reasons at the time their applications are filed under 327 IAC 5-3-4(b)(5). The commissioner may, in the commissioner's discretion, grant or deny such a request. If it is granted, both the early decision on CWA section 316(a) or (b) issues and the determination on the balance of the permit shall be considered permit issuance under these rules (327 IAC 5-3), and shall be subject to the same requirements of public notice and comment and the same opportunity for an adjudicatory hearing.

(b) If the commissioner, on review of the administrative record, determines that the information necessary to decide whether or not an alternative effluent limitation under section 316(a) of the CWA should be granted to a source is not likely to be available by the time a decision on permit issuance must be made, the commissioner may issue a permit for a term of up to five (5) years without making the CWA section 316(a) decision. This permit shall require that the point source achieve the effluent limitations initially proposed for the control of the thermal component of the discharge no later than the date otherwise required by applicable legal requirements. However, the permit shall also afford the permittee an opportunity to file a demonstration under section 316(a) of the CWA after conducting such studies as are required by 327 IAC 5-7.

(c) Whenever the commissioner defers the CWA section 316(a) determination pursuant to subsection (b), any determination under section 316(b) of the CWA may also be deferred. (*Water Pollution Control Board; 327 IAC 5-3-13; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-14 Issuance and effective date of a permit

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 14. (a)(1)(A) After the close of the public comment period (including any public hearing) required by 327 IAC 5-3-9 on a draft permit, the commissioner (except as provided in subdivision (2)) shall issue a final permit decision and shall serve notice of that action on the applicant and on each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures available to contest the permit terms by requesting an adjudicatory hearing. For the purposes of this section, a final permit decision means a

final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(B) Issuance of a general permit shall be accomplished by the publication of the full text of the permit in the Indiana Register and the notification specified by 327 IAC 5-3-12(d), in addition to the notification required by clause (A).

(2) The commissioner may delegate authority to a staff member to issue or deny NPDES permits to applicants within a specified class or category of point sources. Within the scope of any such delegation, a reference in these rules (327 IAC 5-3) to the commissioner shall also mean the commissioner's delegatee.

(b) A final permit decision shall become effective on the date of receipt by the applicant of notice of said decision or on such later date as specified by the commissioner pursuant to IC 13-7-10-2.5(b).

(c)(1) If an adjudicatory hearing request concerning a final permit decision is granted by the board pursuant to IC 13-7-10-2.5(e), any permit provisions that are stayed by order of the board shall not go into effect until confirmed at the final resolution of the hearing or until the board otherwise dissolves the stay. Any permit provisions not stayed by the board in such a proceeding remain effective and in full force.

(2) Where permit provisions are stayed during an adjudicatory proceeding on a renewal permit for an existing source, all provisions of the previous permit which correspond to the stayed provisions of the new permit and which are consistent with those provisions of the new permit that are not stayed shall continue in full force and effect until a final resolution of the adjudicatory proceeding. However, this paragraph shall not apply if a timely and sufficient application for the renewal permit was not submitted in accordance with IC 13-7-10-2(e). (*Water Pollution Control Board; 327 IAC 5-3-14; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-3-15 Response to comments

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 15. Contemporaneously with the issuance of a final permit under 327 IAC 5-3-14, the commissioner shall transmit a response to each person having commented on the draft permit. This response to comments shall contain:

- (1) a brief description of and response to all significant comments on the draft permit raised during the public comment period, or during any hearing;
- (2) a specific indication of which provisions of the draft permit have been changed in the final permit, and the reasons for the change; and

Final Rules**General permit program****327 IAC 5-4-6 Separate storm sewers**

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 6. (a) Separate storm sewers, as defined in this section, are point sources subject to the NPDES permit program. Separate storm sewers may be covered either under individual NPDES permits or under the general permit program (see 327 IAC 5-4-8).

(b) Definitions.

(1) "Separate storm sewer" means a conveyance or system of conveyances (including but not limited to pipes, conduits, ditches, and channels) primarily used for collecting and conveying storm water runoff and which is located in an urbanized area as designated by the Bureau of Census according to the criteria in 39 FR 15202 (May 1, 1974). "Separate storm sewer" does not include any conveyance which discharges process wastewater or storm water runoff significantly contaminated by contact with wastes, raw materials, or pollutant-contaminated soil, from lands or facilities used for industrial or commercial activities, into waters of the state or into separate storm sewers. Such discharges are subject to the general provisions of 327 IAC 5-2.

(2) "Pollutant-contaminated soil" means soil contaminated by exposure to process-related pollutants, such as raw materials, products, or process wastes, as a result of industrial or commercial activities. It generally does not mean soil alone, uncontaminated by exposure to such other pollutants.

(Water Pollution Control Board; 327 IAC 5-4-6; filed Sep 24, 1987, 3:00 pm)

327 IAC 5-4-7 Silvicultural activities

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 7. Silvicultural point sources, as defined in 40 CFR 122.27, are point sources subject to the NPDES permit program. (Water Pollution Control Board; 327 IAC 5-4-7; filed Sep 24, 1987, 3:00 pm)

327 IAC 5-4-8 General permit program

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 8. (a) The commissioner may regulate the following discharges under general permits:

- (1) separate storm sewers; and
- (2) such other categories of point sources for which there are a number of minor point sources operating in a geographical area that:
 - (A) involve the same or substantially similar types of operations;
 - (B) discharge the same types of wastes;

(C) require the same effluent limitations or operating conditions;

(D) require the same or similar monitoring requirements; and

(E) in the opinion of the commissioner, would be more appropriately controlled under a general permit than under individual NPDES permits.

(b) Each general permit shall be applicable to a class or category of dischargers meeting the criteria of subsection (a) within a GPA designated by the commissioner in accordance with the following:

(1) The GPA shall correspond with existing geographic or political boundaries such as:

(A) designated planning areas under section 208 and 303 of the CWA;

(B) regional sewer districts or sewer authorities;

(C) city, county or state political boundaries;

(D) state highway systems;

(E) standard metropolitan statistical areas as defined by the Federal Office of Management and Budget;

(F) urbanized areas as defined by the Bureau of Census according to the criteria in 39 FR 15202 (May 1, 1974); or

(G) any other appropriate divisions or combinations of the above boundaries which will encompass the sources subject to the general permit.

(2) Any designation of any GPA is subject to review by the commissioner at the expiration of the general permit for the GPA, or if individual permits have been issued to all the owners and operators in the categories of point sources within the GPA, or as necessary to address water quality problems effectively.

(c) Scope of General Permits. (1) Each general permit shall cover all owners and operators of separate storm sewers or other designated categories of point sources in the GPA for which the general permit is issued, except:

(A) as provided in subsection (d); and

(B) owners and operators of separate storm sewers or other such categories of point sources, who are already subject to individual NPDES permits prior to the effective date of the general permit;

(2)(A) All sources not excluded from general permit coverage for the above reasons are permittees subject to the terms and conditions of the general permit. Every person believing himself to be a permittee under a general permit shall notify the commissioner of that fact within ninety (90) days after the publication of the final permit in accordance with 327 IAC 5-3-14(a)(1)(B).

(B) Sources excluded from general permit coverage solely because they already have an individual NPDES

permit may request that the individual permit be revoked, and that they be covered by the general permit. Upon revocation or expiration of the individual NPDES permit, the general permit shall apply to such point source.

(d) Case-by-case designation: (1) The commissioner may require any person authorized to discharge under a general permit to apply for and obtain an individual NPDES permit if one (1) of the six (6) cases listed below occurs. Interested persons may petition the commissioner to take action under this subsection. Cases where individual NPDES permits may be required include the following:

- (A) the discharge(s) is determined to be a significant contributor of pollution;
- (B) the discharger is not in compliance with the terms and conditions of the general permit;
- (C) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants from the point source;
- (D) effluent limitations guidelines are subsequently promulgated for point sources covered by the general permit;
- (E) a water quality management plan containing requirements applicable to such point source is approved; or
- (F) the requirements of clauses (A) through (D) are not met.

(2) The commissioner may require a person authorized to discharge by a general permit to apply for an individual NPDES permit, pursuant to subdivision (1), by notifying the person in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit the general permit as it applies to the individual permittee shall automatically terminate. The commissioner may grant additional time upon request of the applicant for completion of the application.

(3) Any owner or operator subject to a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit in accordance with 327 IAC 5-3. The owner or operator shall submit such application, with reasons supporting the request, to the commissioner no later than ninety (90) days after the publication of the general permit in accordance with the provisions of 327 IAC 5-3-14(a)(1)(B). All such requests shall be granted by issuance of an individual permit if the reasons cited by the owner or operator are adequate to support the request.

(4) Where an individual NPDES permit is issued to an owner or operator otherwise subject to a general permit, the general permit as it applies to the individual NPDES permittee is automatically revoked on the effective date of the individual permit.

(e) A general permit is, in essence, a permit-by-rule. Therefore, the statutory requirements for administrative agency rulemaking must be satisfied in the issuance of a general permit. (*Water Pollution Control Board; 327 IAC 5-4-8; filed Sep 24, 1987, 3:00 pm*)

Rule 5. NPDES Criteria and Standards for Technology-Based Treatment Requirements

327 IAC 5-5-1 Purpose and scope

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 1. This rule (327 IAC 5-5) establishes criteria and standards for the imposition of technology-based treatment requirements in permits under 327 IAC 5-2-10, including the application of EPA-promulgated effluent limitations and standards under sections 301(b) and 306 of the CWA, and case-by-case determinations of effluent limitations under section 402(a)(1) of the CWA. (*Water Pollution Control Board; 327 IAC 5-5-1; filed Sep 24, 1987, 3:00 pm*)

327 IAC 5-5-2 Technology-based treatment requirements

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7

Sec. 2. (a) Technology-based treatment requirements under sections 301(b) and 306 of the CWA represent the minimum level of control that must be imposed in an NPDES permit issued under section 402 of the CWA for an existing source and a new source, respectively. Notwithstanding these minimum technology-based requirements, more stringent treatment requirements may be imposed under sections 301(b)(1)(C), 302, or 307(a)(2) of the CWA.

(b) Technology-based treatment requirements may be imposed through one of the following three (3) methods:

(1) Application of EPA-promulgated, effluent limitations developed under section 304 or section 306 of the CWA to discharges by category or subcategory. If a fundamentally different factors variance (see 327 IAC 5-6) is approved, the resulting effluent limitations are technology-based treatment requirements for purposes of this article (327 IAC 5).

(2) On a case-by-case basis under section 402(a)(1) of the CWA, to the extent that EPA-promulgated effluent limitations are unavailable. Standards of performance for new sources cannot be developed on

V. DRAFT GENERAL PERMIT FOR COAL MINES

VIA CERTIFIED MAIL

Mr. John Q. Pyrite, President
FeS Coal Company, Inc.
C.R. 123 North
Coal City, Indiana 47000

Re: General NPDES No. IN G055990
Authorization No. IN 0048510
FeS Coal Company, Inc.
Fools Gold Mine #3
Coal City, Indiana

Dear Mr. Pyrite:

Your Notice of Intent (NOI) and application for inclusion under the General National Pollutant Discharge Elimination System (NPDES) Permit for coal mines (IN G055990) for authorization to discharge into Sulfur Creek and an unnamed tributary of Sulfur Creek has been processed in accordance with Sections 402 and 405 of the Federal Water Pollution Control Act as amended, (33 U.S.C. 1251, et seq.), and the Indiana Environmental Management Act, as amended (IC 13-7, et seq.). The enclosed NPDES Permit covers your facility which surface mines coal and operates a coal preparation plant. All discharges from this facility shall be consistent with the terms and conditions of the attached general permit.

In your NOI and application for this permit, you requested authorization for 19 outfalls. The following is your authorization to discharge from the requested outfalls under general permit IN G055990:

<u>Outfall(s)</u>	<u>Permit</u>	<u>Designation</u>	<u>Receiving Stream</u>
	<u>Authorization</u>		
001 & 002	I.A.1	New Source Undetermined	Sulfur Creek
003 & 004	I.A.2	New Source Undetermined Coal Preparation Plant	Sulfur Creek
005 & 006	I.A.3	New Source Alkaline	Sulfur Creek
007 & 008	I.A.4	Existing Source Alkaline	Sulfur Creek
009, 010, 011	I.A.5	New Source Acid	unnamed tributary of Sulfur Creek
012, 013	I.A.6	Existing Source Acid	Sulfur Creek
014, 015, 016	I.A.7	Initial Reclamation Area	unnamed tributary of Sulfur Creek
NONE	I.A.8	Final Reclamation Area	---
017, 018, 019	---	Do not exist at this time	

Mr. J. Q. Pyrite
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As long as the total number of outfalls does not exceed 19, outfalls may be deleted, added, or moved by minor modification. All that is required for application for such modification is a revised topographical map showing the location of the outfalls and a cover letter explaining the changes. All new outfalls with no previous designation will be classified as new source undetermined mine drainage.

One condition of your permit requires monthly reporting of several effluent parameters. Reporting is to be done on the enclosed discharge monitoring report form. We have included enough forms to establish a supply for approximately four months of reporting. Additionally, you will soon be receiving a supply of the computer generated preprinted federal NPDES DMR forms. Both the state and federal forms need to be completed and submitted on a monthly basis. If you do not receive the preprinted DMR forms in a timely manner, please call this office at 317/232-8808.

Another condition which needs to be clearly understood concerns violation of the effluent limitations in the permit. Exceeding the limitations constitutes a violation of the permit and may bring criminal or civil penalties upon the permittee. (See Part II, A.2.) It is very important that your office and treatment operator understand this part of the permit.

It should also be noted that any appeal must be filed under procedures outlined in IC 13-7-10-2.5, IC 4-21.5 and the enclosed Public Notice. The appeal must be initiated by filing with the Commissioner of the Department of Environmental Management a request for an adjudicatory hearing within 15 days of receipt of this letter. Please send a copy of any written appeal to me at the above address.

If you have any questions concerning your NPDES Permit, please contact Mr. Jim McCurdy of this office at AC 317/232-8709. Questions concerning appeal procedures should be directed to the Office of Legal Counsel, at 317/232-8493.

Sincerely,

David P. Nelsen
Assistant Commissioner
Office of Water Management

MWS

Enclosures

cc: Chief, Permits Section
U.S. EPA, Region 5
Owen County Health Department

STATE OF INDIANA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
GENERAL PERMIT FOR AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended by P.L. 92-500 and P.L. 95-217 (33 U.S.C. 1251 et seq., the "Act"), the Indiana Environmental Management Act, as amended, (IC 13-7, et. seq.), facilities engaged in the MINING OF COAL AND/OR COAL PROCESSING located in the State of Indiana, having wastewater discharges, and meeting the following applicability criteria, are authorized to discharge to waters of the state in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I and II hereof:

All discharges from any facility subject to this permit shall meet all applicability criteria listed below. Persons wishing to discharge wastewaters to waters of the state which do not meet all of these applicability requirements shall apply for and receive an individual NPDES permit under IC 13-7.

1. This permit is applicable to discharges of undetermined mine drainage, undetermined coal preparation plant and associated areas drainage, alkaline mine drainage and coal preparation plant and associated areas drainage, acid mine drainage and coal preparation plant and associated areas drainage, and reclamation area drainage where application has been made for inclusion under this general permit and written authorization for such has been received by the discharger from IDEM.
2. This permit does not authorize discharges of pollutants in quantities which would be harmful to animal, plant or aquatic life. No pollutants shall be present in the discharge in toxic or hazardous quantities. No discharge is allowed which would violate Indiana Water Quality Standards (327 IAC 2-1) or promulgated Effluent Limitations Guidelines (40 CFR 434).

Effective Date: _____.

Expiration Date: _____ 1995.

In order to receive authorization to discharge beyond the above date of expiration, any party authorized to discharge under the terms of this permit shall submit such information and forms as are required by the Indiana Department of Environmental Management no later than 180 days prior to the date of expiration.

Signed this ____ day of _____, 1990, for the Indiana Department of Environmental Management (IDEM).

David P. Nelsen
Assistant Commissioner
Office of Water Management

TREATMENT FACILITY CLASSIFICATION

The discharger has a Class A-SO industrial wastewater treatment plant, classified in accordance with 327 IAC 8-12, Classification of Water and Wastewater Treatment Plants.

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this permit and lasting until the expiration date, or until the performance bond has been totally released, or until the drainage area for a particular outfall becomes a reclamation area, whichever occurs first, the permittee is authorized to discharge from active mining areas designated as having NEW SOURCE UNDETERMINED MINE DRAINAGE through outfall(s) listed on the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

Effluent Characteristic	Daily Average Report	Daily Maximum Report	Units	Measurement Frequency	Sample Type
Flow	Report	Report	MGD	2x Monthly	Instantaneous
Total Suspended Solids	35	70	mg/l	2x Monthly	Grab
Total Iron	3.0	6.0	mg/l	2x Monthly	Grab
Influent pH [1]	Report	Report	s.u.	Monthly	Grab
Influent Total Iron [1]	Report	Report	mg/l	Monthly	Grab

[1] The above noted parameter(s) are to be monitored for a six month period to determine whether they are present in significant quantities. At the end of this sampling period, the permittee may request, in writing, a review of these requirements. Upon review by the IDEM, monitoring requirements may be deleted, if appropriate, without public notice or opportunity of hearing. Alternatively, the permit may be modified, after public notice and opportunity for hearing, to include effluent limitations for Total Manganese and effluent monitoring for Aluminum, Copper, Nickel, and Zinc.

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken twice each month. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.

- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter accompanying this permit.
- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. Any discharge or increase in the volume of a discharge, caused by precipitation within any 24 hour period less than or equal to the 10-year, 24-hour storm event may comply with the following limitations instead of the otherwise applicable limitations: pH is limited to the range of 6 to 9 and settleable solids are limited to a maximum concentration of 0.5 ml/l. If the precipitation event is greater than the 10-year, 24-hour storm, only pH is limited to the range of 6 to 9.
- i. The alternate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.

2. During the period beginning on the effective date of this permit and lasting until the expiration date or until the performance bond has been totally released, or until the surface area of a particular outfall has become a reclamation area, whichever occurs first, the permittee is authorized to discharge from areas designated as having NEW SOURCE UNDETERMINED COAL PREPARATION PLANT AND ASSOCIATED AREAS drainage through outfall(s) listed on the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	Weekly	Instantaneous
Total Suspended Solids	35	70	mg/l	Weekly	Grab
Total Iron	3.0	6.0	mg/l	Weekly	Grab
Total Manganese[1]	2.0	4.0	mg/l	Weekly	Grab
Influent pH[1]	Report	Report	s.u.	Monthly	Grab
Influent Total Iron[1]	Report	Report	mg/l	Monthly	Grab

- [1] The above noted parameter(s) are to be monitored for a six month period to determine whether or not they are present in significant quantities. At the end of this sampling period, the permittee may request, in writing, a review of these requirements. Upon review by the IDEM, monitoring requirements may be deleted, if appropriate, without public notice or opportunity of hearing. Alternatively, the permit may be modified, after public notice and opportunity for hearing, to include effluent monitoring for Aluminum, Copper, Nickel, and Zinc.
- The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken twice monthly. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
 - The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.
 - The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
 - The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.

- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter accompanying this permit.
- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. The following alternate limitations apply to acid or ferruginous discharges from coal refuse disposal piles. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the one-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event may comply with the following limitations: settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine.
- i. The following alternate limitations apply to acid or ferruginous noncontrolled surface drainage. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the two-year, 24-hour precipitation event may comply with the following limitations: total iron--7.0 mg/l is the daily maximum, settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the two-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event may comply with the following limitations: settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine.
- j. The following alternate limitations apply to all types of discharges. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event may comply with following limitations: pH--6.0 to 9.0 at all times.

- k. The alternate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather base flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.
- 1. The term "coal refuse disposal pile" means any coal refuse deposited on the earth and intended as a permanent disposal or long-term storage (greater than 180 days) of such material but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area. The term "controlled surface mine discharge" means any surface mine drainage that is pumped or siphoned from the active mining area.

3. During the period beginning on the effective date of this permit and lasting until the expiration date or until the performance bond has been totally released, or until the drainage area for a particular outfall becomes a reclamation area, whichever occurs first, the permittee is authorized to discharge from active mining areas designated as having NEW SOURCE ALKALINE mine drainage and/or coal preparation plant and associated areas drainage through outfall(s) listed in the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	2 X Monthly	Instantaneous
Total Suspended Solids	35	70	mg/l	2 X Monthly	Grab
Total Iron	3.0	6.0	mg/l	2 X Monthly	Grab

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken twice monthly. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.
- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter.
- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.

- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. Any discharge or increase in volume of a discharge, caused by precipitation within any 24 hour period less than or equal to the 10-year, 24-hour storm event may comply with the following limitations instead of the otherwise applicable limitations: pH is limited to the range of 6 to 9 and settleable solids are limited to a maximum concentration of 0.5 ml/l. If the precipitation event is greater than the 10-year, 24-hour storm, only pH is limited to the range of 6 to 9.
- i. The alterate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.

4. During the period beginning on the effective date of this permit the expiration date or until the performance bond has been totally released, or until the surface area of a particular outfall has become a reclamation area, whichever occurs first, the permittee is authorized to discharge from active mining areas designated as having EXISTING SOURCE ALKALINE mine drainage and/or coal preparation plant and associated areas drainage through outfall(s) listed on the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	2x Monthly	Instantaneous
Total Suspended Solids	35	70	mg/l	2x Monthly	Grab
Total Iron	3.5	7.0	mg/l	2x Monthly	Grab

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken twice each month. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.
- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter accompanying this permit.

- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. Any discharge or increase in volume of a discharge, caused by precipitation within any 24 hour period less than or equal to the 10-year, 24-hour storm event may comply with the following limitations instead of the otherwise applicable limitations: pH is limited to the range of 6 to 9 and settleable solids is limited to a maximum concentration of 0.5 ml/l. If the precipitation event is greater than the 10-year, 24-hour storm, only pH is limited to the range of 6 to 9.
- i. The alterate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.

5. During the period beginning on the effective date of this permit and lasting until the expiration date or until the performance bond has been totally released, or until the surface area of a particular outfall has become a reclamation area, whichever occurs first, the permittee is authorized to discharge from active mining areas designated as having NEW SOURCE ACID mine drainage and/or coal preparation plant and associated areas drainage through outfall(s) listed on the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	Weekly	Instantaneous
Total Suspended Solids	35	70	mg/l	Weekly	Grab
Total Iron	3.0	6.0	mg/l	Weekly	Grab
Total Manganese	2.0	4.0	mg/l	Weekly	Grab
Total Aluminum [1]	Report	Report	mg/l	Monthly	Grab
Total Copper [1]	Report	Report	mg/l	Monthly	Grab
Total Nickel [1]	Report	Report	mg/l	Monthly	Grab
Total Zinc [1]	Report	Report	mg/l	Monthly	Grab

[1] The above noted parameter(s) are to be monitored for one year to determine whether or not they are present in significant quantities. At the end of this sampling period, the permittee may request, in writing, a review of these requirements. Upon review by the IDEM, monitoring requirements may be deleted, if appropriate, without public notice or opportunity of hearing. Alternatively, if any of the above noted pollutants are found to be present in significant quantities, the permittee will be required to apply for an individual NPDES permit which will include appropriate effluent limitations for each pollutant which was found to be present in significant quantities. The samples for the above noted parameters should be taken during a precipitation event. All of the analysis results of the above noted parameters shall be reported on the monthly discharge monitoring reports.

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken once each week. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.

- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter.
- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. The following alternate limitations apply to acid or ferruginous discharges from coal refuse disposal piles. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the one-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event may comply with the following limitations: settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine.
- i. The following alternate limitations apply to acid or ferruginous noncontrolled surface drainage. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the two-year, 24-hour precipitation event may comply with the following limitations: total iron--7.0 mg/l is the daily maximum, settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the two-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event may comply with the following limitations: settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine.
- j. The following alternate limitations apply to all types of discharges. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event may comply with following limitations: pH--6.0 to 9.0 at all times.

- k. The alternate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather base flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.
- l. The term "coal refuse disposal pile" means any coal refuse deposited on the earth and intended as a permanent disposal or long-term storage (greater than 180 days) of such material but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area. The term "controlled surface mine discharge" means any surface mine drainage that is pumped or siphoned from the active mining area.

6. During the period beginning on the effective date of this permit and lasting until the expiration date or until the performance bond has been totally released, or until the surface area of a particular outfall has become a reclamation area, whichever occurs first, the permittee is authorized to discharge from active mining areas designated as having EXISTING SOURCE ACID mine drainage and/or coal preparation plant and associated areas drainage through outfall(s) listed on the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	Weekly	Instantaneous
Total Suspended Solids	35	70	mg/l	Weekly	Grab
Total Iron	3.5	7.0	mg/l	Weekly	Grab
Total Manganese	2.0	4.0	mg/l	Weekly	Grab
Total Aluminum [1]	Report	Report	mg/l	Monthly	Grab
Total Copper [1]	Report	Report	mg/l	Monthly	Grab
Total Nickel [1]	Report	Report	mg/l	Monthly	Grab
Total Zinc [1]	Report	Report	mg/l	Monthly	Grab

[1] The above noted parameter(s) are to be monitored for one year to determine whether or not they are present in significant quantities. At the end of this sampling period, the permittee may request, in writing, a review of these requirements. Upon review by the IDEM, monitoring requirements may be deleted, if appropriate, without public notice or opportunity of hearing. Alternatively, if any of the above noted pollutants are found to be present in significant quantities, the permittee will be required to apply for an individual NPDES permit which will include appropriate effluent limitations for each pollutant which was found to be present in significant quantities. The samples for the above noted parameters shall be taken during a precipitation event. All of the analysis results of the above noted parameters shall be reported on the monthly discharge monitoring reports.

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken once each week. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.

- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter accompanying this permit.
- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. The following alternate limitations apply to acid or ferruginous discharges from coal refuse disposal piles. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the one-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event may comply with the following limitations: settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine.
- i. The following alternate limitations apply to acid or ferruginous noncontrolled surface drainage. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the two-year, 24-hour precipitation event may comply with the following limitations: total iron--7.0 mg/l is the daily maximum, settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the two-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event may comply with the following limitations: settleable solids--0.5 ml/l is the daily maximum, and pH is limited to the range of six to nine.
- j. The following alternate limitations apply to all types of discharges. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event may comply with following limitations: pH--6.0 to 9.0 at all times.

- k. The alternate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather base flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.
- l. The term "coal refuse disposal pile" means any coal refuse deposited on the earth and intended as a permanent disposal or long-term storage (greater than 180 days) of such material but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area. The term "controlled surface mine discharge" means any surface mine drainage that is pumped or siphoned from the active mining area.

7. During the period beginning when the surface area of the mine has been returned to the required contour and on which revegetation work has commenced and lasting until the expiration date or until the performance bond has been totally released, or until the surface area of the mine has been revegetated (this corresponds to 85% bond release), whichever occurs first, the permittee is authorized to discharge from mining areas designated as having INITIAL RECLAMATION AREA mine drainage through the outfall(s) listed in the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	4 X Yearly[1]	Instantaneous
Settleable Solids	Report	0.5	ml/l	4 X Yearly[1]	Grab

[1] During the period from March 1st to June 30th, the monitoring frequency shall be once every month. At all other times the sampling frequency shall be once every three months. It is the responsibility of the permittee to inform the Permits Section of the Office of Water Management of the reclamation area status.

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken once each reporting period. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.
- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed in the cover letter.

- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour storm event may comply with the following limitations instead of the otherwise applicable limitations: pH is limited to the range of 6 to 9. These alternate limitations are applicable to any treatment facility. The alternate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather base flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.

8. During the period beginning when the surface area of the mine has been revegetated (this corresponds to 85% bond release) and lasting until the expiration date or until the performance bond has been totally released, the permittee is authorized to discharge from FINAL RECLAMATION AREAS through outfall(s) listed on the cover letter accompanying this permit. Such discharge shall be limited and monitored by the permittee as specified below:

Discharge Limitations

<u>Effluent Characteristic</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Report	Report	MGD	1 X 6 Months	Instantaneous
Settleable Solids	Report	0.5	ml/l	1 X 6 Months	Grab

- a. The pH shall not be less than 6 nor greater than 9. The pH shall be monitored as follows: by a grab sample taken once every six months. The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime, and/or soda ash.
- b. The discharge shall not cause excessive foam in the receiving waters. The discharge shall be essentially free of floating and settleable solids.
- c. The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.
- d. The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.
- e. Samples taken in compliance with the monitoring requirements above shall be taken at a point representative of the discharge but prior to entry into the corresponding streams listed on the cover letter accompanying this permit.

- f. Where wastestreams from any area covered by this permit are combined for treatment or discharge through a single outfall with wastestreams from another area of a different type covered by this permit, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component wastestream of the discharge.
- g. The permittee shall take one sample during or immediately following a precipitation event every reporting period. A precipitation event shall be defined as a rainfall, snow melt or ice melt which causes a discharge or an increase in the volume of a discharge.

ALTERNATE EFFLUENT LIMITATIONS FOR PRECIPITATION EVENTS

- h. Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour storm event may comply with the following limitations instead of the otherwise applicable limitations: pH is limited to the range of 6 to 9. These alternate limitations are applicable to any treatment facility. The alternate limits for a precipitation event are not applicable to discharges which occur during dry weather base flow. Dry weather base flow is defined in Part I.B.3.(f). The permittee must state on an attachment to the monthly reporting form which samples were taken under the storm exemption, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.

B. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Reporting

The permittee shall submit monitoring reports (DMR-1 Form) to the Indiana Department of Environmental Management containing results obtained during the previous month and shall be postmarked no later than the 28th day of the month following each completed monitoring period. The first report shall be submitted by the 28th day of the month following the month in which the permit becomes effective.

If there is to occur a substantial period of time during which there will be no discharge from an authorized outfall, then the permittee may submit a written request to the Indiana Department of Environmental Management for relief from reporting requirements. The Indiana Department of Environmental Management may then suspend reporting requirements without public notice or opportunity for public hearing.

The Regional Administrator may request the permittee to submit monitoring reports to the Environmental Protection Agency if it is deemed necessary to assure compliance of the permit.

3. Definitions

a. Daily Average

- (1) Weight Basis - The "daily average" discharge means the total discharge by weight during a calendar month divided by the number of days in the month that the production or commercial facility was discharging. Where less than daily sampling is required by this permit, the daily average discharge shall be determined by the summation of the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.
- (2) Concentration Basis - The "daily average" concentration means the arithmetic average (proportional to flow) of all daily determinations of concentration made during a calendar month. Daily determinations of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily determination of concentration shall be the arithmetic average (weighted by flow value) of all the samples collected during the calendar day.

b. "Daily Maximum" Discharge

- (1) Weight Basis - The "daily maximum" discharge means the total discharge by weight during any calendar day.
- (2) Concentration Basis - The "daily maximum" concentration means the daily determination of concentration for any calendar day.

c. Concentration--The weight of any given material present in a unit volume of liquid. Unless otherwise indicated in this permit, concentration values shall be expressed in milligrams per liter (mg/l).

d. The "Regional Administrator" is defined as the Region V Administrator, U.S. EPA, located at 230 South Dearborn Street, Chicago, Illinois 60604.

e. The "Commissioner" is defined as the Commissioner of the Indiana Department of Environmental Management. The Department is located at the following address: 105 South Meridian Street, Indianapolis, Indiana 46225.

f. Dry weather base flow is the normal "base flow" coming from an area or treatment facility which is not immediately affected by runoff caused by rainfall. This flow is a result of groundwater interference or a build-up of rainwater over a long period of time. Alternate limitations apply when this dry weather flow increases due to a precipitation event and continues until the flow again returns to the dry weather rate, which is generally no more than 24 hours after the rain stops.

4. Test Procedures

The analytical and sampling methods used shall conform to the current version of 40 CFR, Part 136. The approved methods may be included in the tests listed below. However, different but equivalent methods are allowable if they receive the prior written approval of the state agency and the U.S. Environmental Protection Agency.

- (1) Standard Methods for the Examination of Water and Wastewater 16th Edition, 1985, American Public Health Association, Washington, D.C. 20005.
- (2) A.S.T.M. Standards, Part 23, Water; Atmospheric Analysis 1972 American Society for Testing and Materials, Philadelphia, Pennsylvania 19103.
- (3) Methods for Chemical Analysis of Water and Wastes June 1974, Revised March 1983, Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, Ohio 45202.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date, and time of sampling;
- b. The dates the analyses were performed;
- c. The person(s) who performed the analyses;
- d. The analytical techniques or methods used; and
- e. The results of all required analyses.

6. Records Retention

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for a minimum of three (3) years, or longer, if requested by the Regional Administrator or the Indiana Department of Environmental Management.

PART II
STANDARD CONDITIONS FOR NPDES PERMITS
FOR INDUSTRIAL FACILITIES

SECTION A. GENERAL CONDITIONS

1. Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Indiana Environmental Management Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions

Pursuant to the Indiana Environmental Management Act, any person who violates a permit condition implementing sections 301, 302, 306, 307, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year or both. If the conviction is for a violation committed after a first conviction of such person under this provision, punishment shall be a fine of not more than fifty thousand dollars (\$50,000) per day of violation, or by imprisonment for not more than two (2) years, or both.

Except as provided in permit conditions on "Bypassing," Section B, Paragraph 2 and "Upsets," Section B, Paragraph 3, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

4. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause, including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of (i) a request by the permittee for a permit modification, revocation and reissuance, or termination, or (ii) a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5. Duty to Provide Information

The permittee shall furnish to the Commissioner, within a reasonable time, any information which the Commissioner may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Commissioner, upon request, copies of records required to be kept by this permit.

6. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit. The Commissioner may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

7. Transfers

This permit is nontransferable to any person except after notice to the Commissioner pursuant to Regulation 327 IAC 5-2-6(c). The Commissioner may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

8. Toxic Pollutants

Notwithstanding Paragraph A-4, above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants injurious to human health within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

9. Containment Facilities

When cyanide or cyanogen compounds are used in any of the processes at this facility, the permittee shall provide approved facilities for the containment of any losses of these compounds in accordance with the requirements of Water Pollution Control Board Regulation 327 IAC 2-2-1.

10. Operator Certification

The permittee shall have the waste treatment facilities under the direct supervision of an operator certified by the Commissioner as required by IC 13-1-6.

11. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

12. Property Rights

The issuance of this permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or an invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

13. Severability

The provisions of this permit are severable and, if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

14. Inspection and Entry

The permittee shall allow the Commissioner, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

15. Construction Permit

The permittee shall not construct, install, or modify any water pollution control facility without a valid construction permit issued by the Indiana Department of Environmental Management pursuant to 327 IAC 3-2.

SECTION B. MANAGEMENT REQUIREMENTS

1. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and efficiently operate all facilities and systems for wastewater collection and treatment which are installed or used by the permittee and which are necessary for achieving compliance with the terms and conditions of this permit in accordance with 327 IAC 5-2-8.

2. Bypass of Treatment Facilities

a. Definitions:

- (1) "Bypass" means the intentional diversion of a waste stream from any portion of a treatment facility normally utilized for treatment of the waste stream.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production at the permittee's facility.

b. (Prohibition of Bypass) Bypass which causes or is likely to cause applicable effluent limitations to be exceeded is prohibited unless the following three conditions are met:

- (1) Bypass is unavoidable to prevent loss of life, personal injury or severe property damage;
- (2) There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal period of equipment down-time; and
- (3) The permittee submits notice of an unanticipated bypass to the Commissioner within 24 hours of becoming aware of the bypass (if this information is provided orally, a written submission must be provided within five days). Where the permittee knows or should have known in advance of the need for a bypass, this prior notification shall be submitted for approval to the Commissioner, if possible, at least ten days before the date of the bypass.

c. An anticipated bypass which meets the three criteria of Paragraph b of this subsection may be allowed under conditions determined to be necessary by the Commissioner to minimize any adverse effects.

3. Upset Conditions

- a. Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. (Effect of an upset) An upset shall constitute an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Paragraph c of this subsection are met.
- c. (Conditions necessary for a demonstration of upset) A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:
 - (1) An upset occurred and the permittee has identified the specific cause(s) of the upset, if possible;
 - (2) The permitted facility was at the time being operated in compliance with proper operation and maintenance procedures; and
 - (3) The permittee complied with any remedial measures required under Paragraph A.3 of this Part.

4. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed from or resulting from treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters and to be in compliance with all Indiana statutes and regulations relative to liquid and/or solid waste disposal.

SECTION C. REPORTING REQUIREMENTS

1. Planned Changes in Facility or Discharge

Any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by advance notice to the permit issuing authority of such changes. Following such notice, the permit may be modified to revise existing pollutant limitations and/or to specify and limit any pollutants not previously limited.

2. Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part I.B.2.

3. Compliance Schedules

Reports of compliance or noncompliance with interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

4. Twenty-Four Hour Reporting

The permittee shall report information on the following types of noncompliance within 24 hours from the time permittee becomes aware of such noncompliance:

- a. Any unanticipated bypass which exceeds any effluent limitation in the permit;
- b. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Commissioner in the permit to be reported within 24 hours; and
- c. Any noncompliance which may pose a significant danger to human health or the environment.

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected the anticipated time it is expected to continue; and steps taken or planned to reduce and eliminate the noncompliance and prevent its recurrence. The Commissioner may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

5. Other Noncompliance

The permittee shall report any instance of noncompliance not reported under Paragraph 3 or 4 of this Section at the time the pertinent Discharge Monitoring Report is submitted. The report shall contain the information specified in Paragraph 4 of this Section.

6. Other Information

Where the permittee becomes aware that he failed to submit any relevant facts or submitted incorrect information in a permit application or in any report to the Commissioner, the permittee shall promptly submit such facts or corrected information.

7. Changes in Discharge of Toxic Substances

The permittee shall notify the Commissioner as soon as it knows or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge of any pollutant identified as toxic, pursuant to Section 307(a) of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:"
 - (1) One hundred micrograms per liter (100 ug/l);
 - (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established in Part III of the permit by the Commissioner.
- b. That it has begun or expects to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.

8. Signatory Requirements

- a. All reports required by the permit and other information requested by the Commissioner shall be signed and certified by a person described below or by a duly authorized representative of that person:
 - (1) For a corporation: by a principal executive defined as a president, secretary, treasurer, any vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making functions for the corporation or the manager of one or more manufacturing, production, or operating facilities employing more than two

hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- (3) For a Federal, State, or local governmental body or an agency or political subdivision thereof: by either a principal executive officer or ranking elected official.

b. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above.
- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
- (3) The authorization is submitted to the Commissioner.

c. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

9. Availability of Reports

Except for data determined to be confidential under Water Pollution Control Board Regulation 327 IAC 12, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Indiana Department of Environmental Management and the Regional Administrator. As required by the Clean Water Act, permit applications, permits, and effluent data shall not be considered confidential.

10. Penalties for Falsification of Reports

The Indiana Environmental Management Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

1034B 4/4/90

STATE OF INDIANA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) PERMIT PROGRAM

FACT SHEET

for

A Draft General NPDES Permit to Discharge into Waters of the State
Proposed to be Issued by the:

Indiana Department of Environmental Management
105 South Meridian Street
Indianapolis, IN 46225

Public Notice No.:

Public Notice Issued on:

Applicants:

Those coal mining operations which hold valid permits issued by the Indiana Department of Natural Resources, Division of Reclamation, Permits Section under IC 13-4.1 of the Indiana Revised Statutes and Chapter 12 of Title 310 of the Indiana Administrative Code Regulations.

Receiving Water: Described on Page 6 of this Fact Sheet.

Use Classification: The receiving water is classified for warmwater aquatic life and full body contact recreation.

I. Tentative Decision on the Application

The above applicants have applied or may apply for inclusion under a general NPDES Permit to discharge wastewaters into the above-described receiving water. The NPDES Permit program is administered by the Indiana Department of Environmental Management pursuant to Sec. 402(b) of the Federal Clean Water Act, as amended, the Indiana Environmental Management Act, as amended (IC 13-7), and Rule 327 IAC 5. The Commissioner has examined the application and has developed a draft permit which is proposed to be issued subject to concurrence of the U.S. Environmental Protection Agency. Principal provisions of the draft permit, including effluent limitations, and other pertinent information, are outlined below.

II. Location of Discharge

A description and/or sketch of the location of the general permit area is appended as Attachment I.

III. Description of Existing Discharge

A quantitative description of the discharge types in terms of significant effluent parameters is appended as Attachment II.

IV. Description of Effluent Limitations and Effluent Limitations Rationale

- A. The effluent limitations in the draft permit as well as monitoring requirements, and special conditions are described in Attachment III. Also included is an effluent limitations rationale which provides the basis for each limitation or condition.
- B. The other special conditions in the proposed permit may include, but are not necessarily limited to: monitoring, recording, and reporting discharges; limiting discharges of oil, hazardous substances, collected solids, visible floating solids, foams, and effluent batch discharges; planning for electric power failure and spill prevention and containment; and prohibiting bypass of treatment facilities. Persons wishing further information about the special conditions may contact the Indiana Department of Environmental Management.

V. Procedures for the Formulation of Final Determination

- A. Interested persons are invited to submit written comments upon the proposed general permit. Comments should be submitted in person or by mail no later than 30 days after the date of the public notice was issued for the permit application. Deliver or mail all comments to:

Indiana Department of Environmental Management
Permits Section
Office of Water Management
105 South Meridian Street
Indianapolis, IN 46225

The general permit and public notice numbers should appear next to the above address on the envelope and on each page of any submitted comments. All comments received no later than 30 days after the public notice is issued will be considered in the formulation of final determinations. The Indiana Department of Environmental Management will issue final determinations in a timely manner after the expiration of the public comment period.

- B. If written comments indicate a significant public interest in the application, the Commissioner of the Indiana Department of Environmental Management shall hold a public hearing on the application. If held, the public hearing will be designed to collect relevant information pertaining to the application in an orderly and expeditious manner. Public notice of a public hearing will be circulated at least 30 days in advance of such event. The public hearing will be held within the State of Indiana. After the public hearing, the Commissioner of the Indiana Department of Environmental Management will formulate her final determination. Further information regarding the conduct and nature of the public hearings concerning discharge permits may be obtained by contacting the Indiana Department of Environmental Management.

Requests for a public hearing should: state the name and address of the person requesting the hearing and of any person represented at the hearing by the requester; identify the interest in the proposed permit of the requester and of any person represented by him; state the reasons for the request; state the issues proposed to be considered at the hearing; and state the position of the requester on the issues to be considered at the hearing.

VI. Staff Contact and Availability of Information

Additional information concerning the draft permit or permit issuance procedures may be obtained between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday from:

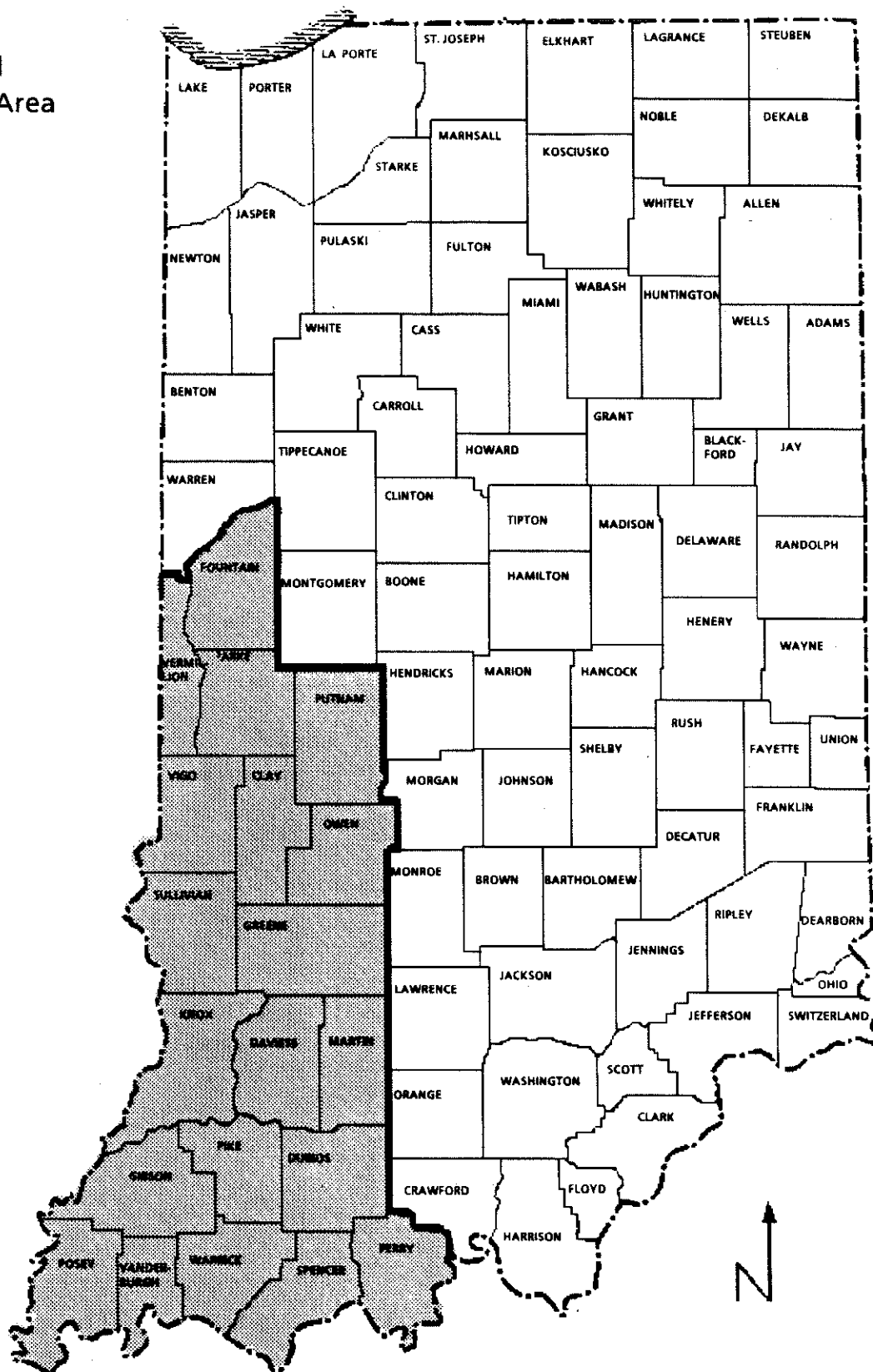
Mr. Jim McCurdy at 317/232-8709

Copies of the application, proposed permit including proposed effluent limitations, special conditions, comments received, and other documents are available for inspection and may be copied at a cost of 15 cents per page at the Indiana Department of Environmental Management, Room 714, 105 South Meridian Street, Indianapolis, Indiana.

Attachment I



General
Permit Area



Attachment II

Description of Discharges

General

1. Synopsis of Application of General Permit

a. Facility Location

Within the political and geographic boundries of the following counties of the State of Indiana: Vermillion, Fountain, Parke, Putnam, Vigo, Clay, Owen, Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, Spencer, and Perry.

b. Description of Applicant's Operation

The extraction of coal and/or the processing of coal and/or the reclamation of a coal mine or coal processing operation. Operations involved in the storage and/or transport of coal which are not directly associated with a coal mining and/or a coal processing operation are not eligible for this permit.

c. Description of Wastewater Treatment

Sedimentation plus the addition of sodium hydroxide, hydrated lime, calcined (unslaked or quick) lime and/or soda ash as needed.

d. Permitting Action

Initial issuance of a General Permit for coal mining and/or coal processor and/or reclamation coal mining activities in the State of Indiana. There are currently approximately 234 such operations in the State of Indiana which may qualify for inclusion under this general permit. Facilities which are currently permitted by an individual NPDES permit, or new dischargers, may apply for inclusion under this general permit at the time of application for renewal or intital NPDES permit application by including a statement regarding their Notice of Intent to be included with their application.

2. Receiving Water

a. Receiving Water Name

Those waters of the state that comprise the Ohio River basin, the Patoka River basin, the White River basin, the Wabash River basin, and subbasins within the political and geographical confines of the Counties of the State of Indiana listed in 1. a. above (primarily the South West one fourth of the state).

b. Stream Segment Use Designation

Warmwater Aquatic Life and Full-Body Contact Recreation.

c. Stream Low Flow Condition

The Q_{7,10} low flows of the various receiving streams in the general permit area range from zero for the smallest of streams to 981 cubic feet per second for the Wabash River.

d. Water Quality Limited or Technology Limited

Because of the wide variation in the sizes of the receiving streams there are cases of both conditions.

3. Description of Operations

Coal mining and/or coal preparation and/or reclamation operations eligible for this general permit include, undetermined mine drainage, undetermined coal preparation plant and associated areas drainage, alkaline mine drainage and coal preparation plant and associated areas drainage, acid mine drainage and coal preparation plant and associated areas drainage, and reclamation area drainage. A description of each operation follows:

a. Undetermined Mine Drainage

This category is for new coal mining operations which are not yet classified as having either alkaline or acid mine drainage in accordance with the definitions contained in 40 CFR Part 434.11. Such discharges are initially given the effluent limitations for alkaline mine drainage since most coal mines in Indiana are alkaline.

b. Undetermined Coal Preparation Plant and Association Areas Drainage

This category is for new coal processing plants which are not yet classified as having either alkaline or acid drainage in accordance with the definitions contained in 40 CFR Parts 434.22 and 434.23. They are initially given the effluent limitations for acid coal preparation plant and associated areas drainage because coal preparation plant drainage has a high potential for being acidic.

c. Alkaline Mine Discharge and Coal Preparation Plant and Associated Areas Drainage.

This category is for active coal mines and coal preparation plants and associated areas, which have been determined to have alkaline drainage in accordance with the definitions contained in 40 CFR Parts 434.11, 434.22, and 434.23.

d. Acid Mine Drainage and Coal Preparation Plant and Associated Areas Drainage

This category is for active coal mines and coal preparation plants and associated areas which have been determined to have acid drainage in accordance with the definitions contained in 40 CFR Parts 434.11, 434.22, and 434.23.

e. Reclamation Area Drainage

This category is for coal mines and coal preparation plants and associated areas which have become reclamation areas in accordance with the definition contained in 40 CFR Part 434.11.

4. Effluent Limitations Rationale

a. Total Suspended Solids

The effluent limitations for total suspended solids are based on the corresponding effluent limitations found in 40 CFR Parts 434.22, 434.25, 434.30, 434.35, 434.42, 434.45, 434.52, and 434.55.

b. Total Iron

The effluent limitations for total iron are based on the corresponding effluent limits found in 40 CFR Parts 434.23, 434.25, 434.33, 434.35, 434.43, 434.45, 434.53, 434.55, and 434.63.

c. Total Manganese

The effluent limitations for total manganese are based on the corresponding effluent limits found in 40 CFR Parts 434.23, 434.25, 434.33, 434.35, 434.53, and 434.55, 434.63, and 434.64.

d. Settleable Solids

The effluent limitations for settleable solids are based on the corresponding effluent limitations found in 40 CFR, Parts 434.53, 434.55, 434.63, and 434.64.

e. pH

The effluent limitations for pH are based on Indiana Water Quality Standards and 40 CFR Part 434.

f. Effluent Limitations for Precipitation Events

The effluent limitations for precipitation events are based on 40 CFR Part 434.63 and the response to comments found in the Federal Register, Volume 50, No. 196 dated Wednesday, October 9, 1985. U.S. EPA and the State of Indiana have determined that these limits are not applicable to discharges which occur during dry weather base flow.

5. Monitoring Requirements

a. Sampling Frequency

i. Alkaline Drainage

Minimum sampling frequency shall be twice per month for flow, pH, total suspended solids, and total iron. Sampling for influent pH and influent total iron shall be once each month for undetermined mine drainage.

ii. Acid Drainage

Minimum sampling frequency shall be once per week for flow, pH, total suspended solids, total iron, and total manganese. Sampling for influent pH and influent total iron shall be once each month for undetermined coal preparation plant and associated areas drainage..

iii. Reclamation Area Drainage

For initial reclamation areas, which have not received the revegetation bond release, the minimum sampling frequency for flow, pH, and settleable solids is once every three months plus once each month between the months of March through June. For final reclamation areas, which have received the revegetation bond release, the minimum sampling frequency for flow, pH, and settleable solids is once every six months.

b. Aluminum, Copper, Nickel, and Zinc

When the untreated wastewater to a particular outfall is determined to be acid, the effluent from that outfall is sampled for aluminum, copper, nickel, and zinc for one year to determine if significant quantities of these metals are present. If it is determined that the effluent contains significant amounts of any of these metals, than that particular mine is no longer eligible for inclusion in this general permit and the discharges from that mine will be permitted by an individual NPDES permit.

c. Precipitation Events

In order to qualify for the alternate effluent limitations for precipitation events, the permittee must first establish the "Dry Weather Base Flow" which is defined as the normal base flow coming from an area or treatment facility which is not immediately affected by runoff caused by rainfall. The permittee shall state on an attachment to the monthly reporting form which samples were taken under the alternate effluent limitations, the duration of the precipitation event, and the amount of precipitation during the event. Failure to submit the necessary information with the monitoring report will disqualify the discharger from utilizing the alternate effluent limitations.

4. Expiration Date

This permit is proposed to be in effect for five years.